

# The Gazette of India



## EXTRAORDINARY

### PART II—Section 2

### PUBLISHED BY AUTHORITY

No. 31] NEW DELHI, FRIDAY, AUGUST 22 1958/SRAVANA 31, 1880.

#### LOK SABHA

The following Bills were introduced in Lok Sabha on the 22nd August, 1958:—

BILL No. 61 OF 1958.

*A Bill to provide for prevention of hydrogenation of oils in India and for matters connected therewith.*

BE it enacted by Parliament in the Ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Prevention of Hydrogenation of Oils Act, 1958. Short title  
extent and  
commencement.

5 (2) It extends to the whole of India.  
(3) It shall come into force at once.

2. Hydrogenation of oils and all such process as give to oils the appearance of ghee or butter shall be stopped. Stopping of  
hydrogenation of oils.

Provided that nothing herein contained shall affect the refinement and other processes not connected with hydrogenation in the factories at present engaged in the manufacture of vanaspati:

Provided further that the stock of vanaspati existing at the commencement of this Act shall be permitted by the Government to be exported by the manufacturers at their option on and from the commencement of this Act.

3. Whoever in contravention of provisions of this Act engages himself in the hydrogenation of oils in India with a view to manufacture vanaspati shall be punishable with simple imprisonment for Punishment  
for hydro-  
genation of  
oils.

a term which may extend to six months and with fine which may extend to three rupees per pound of oil hydrogenated.

Punishment  
for sale and  
storage of  
hydrogenated  
oils.

4. Whoever sells, stores for sale, or publishes advertisements for popularising the sale of oils manufactured in contravention of the provisions of this Act shall be punishable with fine in the case of sale and storage of rupees three per pound of such oil found in his possession and in the case of advertisement to a fine which may extend to one thousand rupees:

Provided that in case of second and subsequent offences the amount of penalty will be double the amount of penalty imposed to 10 the previous offence.

### STATEMENT OF OBJECTS AND REASONS

The manufacture of hydrogenated oils commonly known as vanaspati has been fast increasing in the country. There is a strong feeling in India supported by experience and medical authorities that the use of vanaspati is injurious to public health. It can be used as an adulterant of ghee. It is also regarded as adversely affecting the development of dairy industry in the villages. Attempts to find a suitable and fast colour to distinguish it from ghee and to prevent it from passing as such do not seem to have borne fruit. Prevention of hydrogenation thus seems to be the only way to meet the situation.

Hence this Bill.

JHULAN SINHA

NEW DELHI;

*The 3rd April, 1958.*

## BILL No. 63 OF 1958

*A Bill further to amend the Indian Divorce Act, 1869.*

Be it enacted by Parliament in the Ninth Year of the Republic of India as follows:—

**Short title  
and com-  
mencement.**

1. (1) This Act may be called the Indian Divorce (Amendment) Act, 19

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint. 5

**Amendment  
of section 3.**

2. In section 3 of the Indian Divorce Act, 1869 (hereinafter referred to as the principal Act), sub-sections (6), (7) and (8) shall be omitted.

4 of 1869.

**Substitution  
of new  
sections  
for sections  
10 and 11.**

3. For sections 10 and 11 of the principal Act, the following sections shall be substituted, namely:—

**When hus-  
band or wife  
may sue or  
dissolu-**

“10. (1) Any husband or wife may present a petition to the District Court or to the High Court, praying that his or her marriage may be dissolved on the ground that the respondent—

(a) has since the solemnization of the marriage committed adultery; or 15

(b) has been guilty of bigamy; or

(c) has deserted the petitioner without reasonable excuse for a period of at least four years immediately preceding the presentation of the petition; or

5 (d) has since the solemnization of the marriage treated the petitioner with cruelty; or

10 (e) has been incurably of unsound mind for a continuous period of not less than three years immediately preceding the presentation of the petition; or

15 (f) is undergoing a sentence of imprisonment for seven years or more for an offence as defined in the Indian Penal Code, 1860:

45 of 1860

Provided that dissolution shall not be granted on this ground, unless the respondent has prior to the presentation of the petition undergone at least three years' imprisonment out of the said period of seven years; or

20

(g) has since the solemnization of the marriage, exchanged his or her profession of Christianity for the profession of some other religion, and gone through a form of marriage with another woman or man; or

25 (h) has not resumed cohabitation for a period of two years or upwards after the passing of a decree for judicial separation against the respondent; or

(i) has refused or failed without sufficient cause to consummate the marriage for a period of five years or upwards from the time of the marriage, or of the attainment of puberty, whichever is later; or

30

(j) has failed to comply with a decree for restitution of conjugal rights for a period of three years or upwards after the passing of the decree against the respondent; or

(k) has not been heard of as being alive for a period of seven years or more by those persons who would naturally have heard of it, had the respondent been alive;

25

and any wife may present a petition as aforesaid on the ground that her husband has, since the solemnization of the marriage, been guilty of rape, sodomy or bestiality.

(2) Every such petition shall state, as distinctly as the nature of the case permits, the facts on which the claim to have such marriage dissolved is founded.

Adulterer or  
Adulteress  
to be co-  
respondent.

11. Upon any such petition presented on the ground of adultery, the petitioner shall make the alleged adulterer or adulteress a co-respondent to the said petition, unless he or she is excused from so doing on one of the following grounds to be allowed by the Court:—

(1) in the case of a petition by the husband, that the respondent is leading an immoral life and that the petitioner knows of no person with whom the adultery has been committed;

(2) that the name of the alleged adulterer or adulteress is unknown to the petitioner, although he or she has made due efforts to discover it;

(3) that the alleged adulterer or adulteress is dead.”

**Amendment of section 35.** 4. In section 35 of the principal Act, after the proviso, the following paragraph shall be inserted, namely:—

“Whenever in any petition presented by a wife, the alleged adulteress has been made a co-respondent, and the adultery has been established, the Court may order the co-respondent to pay the whole or any part of the costs of proceedings, provided that the co-respondent shall not be ordered to pay the petitioner's costs, if the co-respondent had not at the time of the adultery reason to believe the respondent to be a married man.”

**Amendment of section 39.**

5. In section 39 of the principal Act,—

(1) the words “of the wife” shall be omitted;

(2) for the words “that the wife”, the words “that the husband or wife” shall be substituted; and

(3) for the word “husband”, the words “wife or husband, as the case may be” shall be substituted.

**Substitution of new section for section 52.**

6. For section 52 of the principal Act, the following section shall be substituted, namely:—

“52. On any petition presented for dissolution of marriage on the ground of cruelty or of desertion without reasonable excuse, the husband and wife shall be competent and compellable to give evidence of or relating to such cruelty or desertion.”

**Competence of husband and wife to give evidence.**

### STATEMENT OF OBJECTS AND REASONS

This Bill is mainly intended to liberalise the grounds for divorce contained in Section 10 of the Indian Divorce Act, 1869, and to bring the provisions of that section so far as may be in line with the provisions relating to divorce in the Special Marriage Act, 1954 and Hindu Marriage Act, 1955.

2. Advantage has been taken of this opportunity to make further amendments to sections 11, 35, 39 and 52 of the Indian Divorce Act, 1869.

Hence this Bill.

NARAYAN GANESH GORAY.

NEW DELHI;

*The 8th April, 1958.*

## BILL NO. 64 OF 1958

*A Bill further to amend the Industrial Disputes Act, 1947.*

BE it enacted by Parliament in the Ninth Year of the Republic of India as follows:—

**Short title and commencement.** 1. (1) This Act may be called the Industrial Disputes (Amendment) Act, 19

(2) It shall come into force at once.

5

**Amendment of section 33.** 2. In clause (b) of sub-section (1) of section 33 of the Industrial Disputes Act, 1947 (hereinafter referred to as the principal Act), after the words "whether by dismissal" the words "or suspension without pay extending for more than a month" shall be inserted.

14 of 1947.

10

**Amendment of the second schedule.** 3. In the second schedule to the principal Act, after item number 5, the following item shall be inserted and numbered as item 6 of that schedule and item number 6 of that schedule shall be renumbered as item number 7,—

"6. If any dispute arises regarding the representative character and recognition of any Union."

15

### STATEMENT OF OBJECTS AND REASONS

Various Industrial Tribunals following the decision of the Supreme Court in the case of Lakshmi Devi Sugar Mills *versus* Ram Sarup and others, reported in the A.I.R. 1957, February, page 82, have held that suspension without pay during the pendency of any proceeding before an industrial tribunal is not a substantive punishment and as such it does not attract section 33 of the Industrial Disputes Act, 1947. Taking advantage of this legal lacuna the employers are keeping employees under suspension without pay, if they desire, for months together till the proceedings before the National Tribunal are over in order to avoid the obligation of taking permission from the tribunal.

2. Secondly, the tribunals following the decision of the Supreme Court in the case referred to above have expressed their helplessness in many awards regarding dispute over recognition of any Union, though of representative character, in the absence of any provision empowering them to deal with this dispute.

Hence this Bill.

NEW DELHI;

The 9th April, 1958.

AUROBINDO GHOSAL.

**BILL No. 69 or 1958**

*A Bill further to amend the Workmen's Compensation Act, 1923.*

Be it enacted by Parliament in the Ninth Year of the Republic of India as follows:—

**Short title and commencement.** 1. (1) This Act may be called the Workmen's Compensation (Amendment) Act, 19 .

(2) It shall come into force at once. 5

**Amendment of the Schedule I.** 2. In the Workmen's Compensation Act, 1923, for the Schedule I, the following Schedule shall be substituted, namely:—

**"SCHEDULE I**

[See Sections 2(1) and 4]

*List of injuries deemed to result in permanent/partial disablement 10*

<i>Injury</i>	<i>Percentage of loss of earning capacity</i>
Loss of right arm above or below the elbow	90
Loss of left arm above or below the elbow	80
Loss of leg above or below the knee	80      15

	Permanent total loss of hearing *	70
	Loss of one eye	50
	Loss of thumb or any phalanx of thumb	45
	Loss of all toes of one foot	40
5	Loss of index finger	30
	Loss of great toe	30
	Loss of any finger or any phalanx of any finger other than index finger	25."

### STATEMENT OF OBJECTS AND REASONS

The rate of compensation as given in the Schedule I of the Workmen's Compensation Act, 1923, computed in 1923 was based on the then financial circumstances of the country. About 35 years have passed since then and the financial circumstances including cost of living index have changed, but this chart has not been revised. Moreover some items of compensation also require deletion. There is no justification in the retention of the differences in the rates of compensation for the loss of hand just above the elbow and for the loss of a hand just below the elbow.

Hence this Bill.

AUROBINDO GHOSAL.

NEW DELHI;

*The 11th April, 1958.*

BILL No. 65 OF 1958

*A Bill further to amend the Representation of the People Act, 1951.*

Be it enacted by Parliament in the Ninth Year of the Republic of India as follows:—

13 of 1951.

1. (1) This Act may be called the Representation of the People (Amendment) Act, 19<sup>Short title and commencement.</sup>

5 (2) It shall come into force at once.

2. In section 116-A of the Representation of the People Act, 1951,<sup>Amendment of section 116A.</sup> after sub-section (5), the following sub-section shall be inserted, namely:—

10 “(6) The High Court shall, after pronouncing judgment on an appeal against the decision of any Tribunal, cause to send a copy of the judgment to the Election Commission, New Delhi and the Chief Election Officer concerned of the State.”

### STATEMENT OF OBJECTS AND REASONS

Under the Representation of the People Act, 1951 an appeal can be filed against the decision of the Election Tribunal to the High Court of the State concerned. Under section 103 of the Act, the decision of the Election Tribunal shall be communicated to the Election Commission but it has not been provided in the Act that the decision of the High Court shall likewise be communicated to the Election Commission or to the Chief Election Officer of the State concerned. The High Court, unless specially provided for in the Act, cannot send a copy of its judgment to the Election Commission. This lacuna in the Act has led to bye-elections in our country being held after inordinately long periods with the result that people of those areas go unrepresented in the Legislative Assemblies of the States for long periods. One such instance is that of Harihar Constituency in the State of Mysore. Even though the High Court of Mysore had several months ago declared it void and such declaration takes immediate effect according to the Representation of the People Act, 1951, the Election Commission has not declared the seat in Harihar vacant.

Hence this Bill.

N. KESHAVA

NEW DELHI;

The 16th April, 1958.

## BILL No. 66 OF 1958

*A Bill further to amend the Salaries and Allowances of Members of Parliament Act, 1954.*

Be it enacted by Parliament in the Ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Salaries and Allowances of Members of Parliament (Amendment) Act, 19<sup>Short title and commencement.</sup>

5       (2) It shall come into force at once.

2. In Section 6 of the Salaries and Allowances of Members of Parliament Act, 1954, for the words 'First Class Pass' the words 'Third Class Pass' shall be substituted.<sup>of section 6.</sup>

30 of 1954.

### STATEMENT OF OBJECTS AND REASONS

At present members of Parliament are entitled to a non-transferable first class railway pass. It is felt that the practice of according special privileges to VIPs leads to increasing discrimination and inequality in the country on one hand and failure to improve the lot of the ordinary people on the other. It also results in the loss of live contact between the people and their representatives. It is, therefore, suggested that instead of a first class pass, a third class pass should be given to Members of Parliament. This will enable members of Parliament to share the hardships and difficulties to which the third class passengers are subjected and who only constitute the bulk of the people. It will also result in greater attention being paid to the problems of third class passengers by way of amenities and thus improve the travel conditions of poor people. Moreover, it will result in considerable saving to the exchequer.

Hence this Bill.

JAGDISH AWASTHI.

NEW DELHI;

*The 23rd April, 1958.*

## BILL No. 67 OF 1958.

*A Bill to provide for a ban on export of cattle feed in the country.*

Be it enacted by Parliament in the Ninth Year of the Republic of India, as follows:—

1. (1) This Act may be called the Ban on Export of Cattle Feed Short title,  
extent and  
commencement.  
Act, 19
- 5 (2) It extends to the whole of India except the State of Jammu and Kashmir.
- (3) It shall come into force at once.
2. In this Act, unless the context otherwise requires, “cattle feed” Definition. means oil cakes and other concentrates supplying necessary nutrition to to the cattle and include *guar* seeds and extracts like gum therefrom.
- 3 All exports of cattle feed in any shape or form shall be banned. Banning of  
export of  
cattle feed.
4. Whoever exports cattle feed in contravention of the provisions Penalty. of this Act shall be punishable with imprisonment of either description for a term which may extend to three months or with fine or with both.

### STATEMENT OF OBJECTS AND REASONS

There is an inadequate supply of cattle feed in the country and the position of our cattle wealth has been getting worse qualitatively and numerically. It is, therefore, necessary to conserve the resources available and not allow any part of it to be exported.

Hence this Bill.

NEW DELHI;

*The 28th April, 1958.*

JHULAN SINHA.

## BILL No. 76 OF 1958.

*A Bill to provide for relief and rehabilitation of persons losing their land and property as a result of erosion by rivers.*

Be it enacted by Parliament in the Ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Rehabilitation of Dislocated Persons (From Natural Calamities) Act, 19<sup>5</sup>.

Short title,  
extent and  
commencement.

(2) It shall extend to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force in any State on such date as the State Government may, in consultation with the Central Government, by notification in the Official Gazette, appoint, and different dates may be appointed for different parts of the State.

2. In this Act, unless the context otherwise requires,—

Definitions.

(i) 'Diara land' means the basin area on both sides of a river composed of the silt of the river and liable to be submerged in the river by erosion process;

(ii) 'dislocated person' means a person who has lost his homestead and landed properties as a result of erosion on either side of any river during the last twenty years;

(iii) 'distressed person' means a person who has partly lost or is in the danger of losing his landed properties and homestead due to erosion during the next two years;

(iv) 'relief officer' means a public servant appointed by the State Government to discharge the duties and perform the functions assigned to him by the State Government under this Act.

Survey of  
Diara  
land.

3. Within six months of the publication of the notification under sub-section (3) of section 1 in the Gazette, the State Government shall cause to be made a survey of the *Diara* land within the State and enumerate the following:—

(i) The villages and families whose lands and homesteads have been devastated by river erosion during the last twenty years. 10

(ii) Villages and families whose lands and homesteads are likely to be devastated during the course of the next two years.

(iii) Villages and families whose lands and homesteads are on *Diara* lands. 15

Grant of  
aid and  
loans to  
the dislo-  
cated  
persons.

4. (1) A dislocated person who has not got any land on which to construct his house shall be at once provided with free land not exceeding five *Kathas* by the State Government for the purpose.

(2) Within two years after such grant of land, half the cost of the construction of the house shall be given to him in the form of aid by the State Government: 20

Provided that the amount of such aid shall not be less than Rupees fifteen hundred and more than Rupees four thousand depending on the size of the family.

(3) If a dislocated person requires more money to construct his house than the amount of aid provided for under sub-section (2) the State Government may advance him loans for the purpose on easy instalments and on long term basis. 25

(4) If a dislocated person has already acquired land for resettling himself or has partly constructed a house for the purpose, the State Government shall grant him such aid or loan as provided in sub-sections (2) and (3) of this section for construction of or completing the construction of his house. 30

(5) Where the State Government has already advanced any loan to a dislocated person for the construction of a house or a Taccavi loan, such loan shall be written off and if the relief officer 35

certifies that adequate help has already been given to the said dislocated person, he will not be entitled to any further aid or loan under this section.

(6) The dislocated person shall be given preference wherever allotment of lands is made as a result of reclamation or otherwise.

5 (1) The children of a dislocated person shall be given free education up to matriculation or its equivalent till the expiry of thirty years after dislocation.

10 (2) A dislocated person if found otherwise fit shall be given preference in Government services till the expiry of thirty years after dislocation.

(3) The State Government shall establish industrial estates to absorb the dislocated persons in gainful employment.

15 (4) The artisans among the dislocated persons shall be organised into Co-operative Societies and the necessary capital for this purpose shall be provided by the Government.

20 (5) Preliminary steps shall be taken to facilitate the rehabilitation of distressed persons one year in advance. They shall be treated in the same manner as the dislocated persons once they have left their old place of habitation.

6. (1) The State Government may, with approval of the Central Government, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

25 (2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) Appointment of Relief Officers, fixation of the terms and conditions of their service and the area within which they are to exercise jurisdiction.
- 30 (b) Duties of Relief Officers under this Act.

Other  
measures  
to give  
relief to  
distressed  
persons.

### STATEMENT OF OBJECTS AND REASONS

As a result of changes in the courses of rivers every year in various parts of India, specially in the Northern India, a number of villages are completely devastated, uprooting a large number of people and rendering them homeless.

This Bill is designed to help in their rehabilitation.

RAJENDRA SINGH.

*Dated the 12th June, 1958.*

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 6 of the Bill authorises the State Governments to make rules to provide for appointment of Relief Officers, fixation of terms and conditions of their service, their duties and jurisdiction etc. The rule making power is of a normal character.

## BILL No. 73 OF 1958

*A Bill to provide for the better administration of Sikh Gurdwaras situated in different States of Indian Union and for inquiries into matters connected therewith.*

WHEREAS it is expedient to provide for better and more effective administration of certain Sikh Gurdwaras situated within Indian Union and for inquiries into matters and settlement of disputes connected therewith;

Be it enacted by Parliament in the Ninth Year of the Republic <sup>5</sup> of India as follows:—

## PART I

*Preliminary*

Short title,  
extent and  
commencement.

1. (1) This Act may be called the Sikh Gurdwaras Act.  
(2) It extends to the whole of India.  
to
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint in this behalf.

Definitions.

2. In this Act, unless the context otherwise requires—

- (1) “board” means the Shiromani Gurdwara Parbandhak Committee constituted under the provisions of this Act.  
15

(2) (i) "committee" means a committee of management constituted under the provisions of this Act.

5 (ii) "advisory committee" means a committee constituted under the provisions of section 55.

10 (3) "commission" means the Judicial Commission constituted under the provisions of this Act.

15 (4) (i) "office" means any office by virtue of which the holder thereof participates in the management or performance of public worship in a gurdwara or in the management or performance of any rituals or ceremonies observed therein and "office holder" means any person who holds an office.

(ii) "present office-holder" means a person who, on the commencement of this Act, holds an office.

20 (iii) "past office-holder" means a person who was an office-holder but ceased to be an office-holder before the commencement of this Act.

25 (iv) "hereditary office" means an office the succession to which before the first day of January, 1920, devolved, according to hereditary right or by nomination by the office-holder for the time being, and "hereditary office-holder" means the holder of a hereditary office.

(v) "present hereditary office-holder" means a person who at the commencement of this Act is a hereditary office-holder.

30 (vi) "past hereditary office-holder" means a person who was a hereditary office-holder but ceased to be such office-holder before the commencement of this Act.

(vii) "minister" means an office-holder to whom either solely or along with others the control of the management or performance of public worship in a Gurdwara and of the rituals and ceremonies observed therein is entrusted.

(5) "district" means a revenue district specified by the respective State Governments.

35 (6) "prescribed" means prescribed by the rules made under this Act.

(7) "presumptive successor" where the succession to the office devolves according to hereditary right, means the person

next in succession to a hereditary office-holder, or, where the succession to the office devolves by nomination made by the hereditary office-holder for the time being, means any *chela* so nominated before the first day of January, 1957.

(8) "resident" in any place means any person having a fixed place of above or owning immovable property or land or practising a profession, or carrying on business, or personally working for gain, in that place.

(9) "Sikh" means a person who professes the Sikh religion or, in the case of a deceased person who professed the Sikh religion or was known to be a Sikh during his life-time. If any question arises as to whether any living person is or is not a Sikh, he shall be deemed respectively to be or not to be a Sikh according as he makes or refuses to make in such manner as the Central Government may prescribe the following declaration:

I solemnly affirm that I am a Sikh, that I believe in the Guru Granth Sahib, that I believe in the Ten Gurus, and that I have no other religion.

(10) "Amritdhari Sikh", includes every person who has taken *Khanda-ka-amrit* or *Khanda pahul* prepared and administered according to the tenets of Sikh religion and rites at the hands of five *pyaras* or 'beloved ones'

(11) "patit" means a person who being a Keshadhari Sikh trims or shaves his beard or *keshas* or who after taking *amrit* commits any one or more of the four *kurahits*.

(12) "notified Sikh Gurdwara" means any Gurdwara declared by the Central Government by notification in the Official Gazette to be a Sikh Gurdwara under the provisions of this Act.

30

(13) "treasury" means a Government Treasury or sub-treasury and includes any bank to which the Government treasury business has been made over.

(14) "tribunal" means a tribunal constituted under the provisions of this Act.

35

## PART II

*Petitions to Central Government relating to Gurdwaras*

3. (1) Any Sikh or any present office holder of a Gurdwara situated in India may forward to the Central Government within 5 ninety days from the commencement of this Act, a list signed and verified by himself of all rights, titles or interests in immovable properties situated in India inclusive of the Gurdwara and in all monetary endowments yielding, recurring income or profit received in India, which he claims to belong, to the best of his knowledge 10 to the Gurdwara; the name of the person in possession of any such right, title or interest and if any such person is insane or minor the name of his legal or natural guardian and if any such right, title or interest is alleged to be in possession of the Gurdwara through any person, the name of such person shall be stated in the list 15 and the list shall be in such form and shall contain such further particulars as may be prescribed.

(2) On receiving a list duly forwarded under the provisions of sub-section (1) the Central Government shall, as soon as may be, publish a notification declaring that a Gurdwara to which it relates 20 is a Sikh Gurdwara and after the expiry of the period provided in sub-section (1) for forwarding such lists shall, as soon as may be, publish by notification a consolidated list in which all rights, titles and interests in any such properties which have been included in any list duly forwarded, shall be included and shall also cause 25 the consolidated list to be published in such manner as may be prescribed.

(3) The Central Government shall as soon as may be, send by registered post, a notice of the claim to any right, title or interest included in the consolidated list to each of the persons named 30 therein as being in possession thereof either on his own behalf or on behalf of the Gurdwara:

Provided that no such notice shall be sent if the person named as being in possession is the person who forwarded the list in which the right, title or interest was claimed.

35 (4) The publication of a declaration and of a consolidated list under the provisions of sub-section (2) shall be conclusive proof that the provisions of sub-section (1), (2) and (3) with respect to such publication have been duly complied with and that the

Sikh Gurdwaras and properties belonging to them.

Gurdwara is a Sikh Gurdwara and the provisions of this Act shall apply to such Gurdwara with effect from the date of the publication of the notification declaring it to be a Sikh Gurdwara.

**Effect of omission to forward a list under section 3.** 4. If in respect of any Gurdwara in India no list has been forwarded under the provision of preceding section, the Central Government shall, after the expiry of ninety days from the commencement of this Act, declare that such Gurdwaras shall be deemed to be excluded from specification. 5

**Petitions of claims to property included in consolidated list and signing and verification thereof.** 5. Any person may forward to the Central Government within ninety days from the date of publication of notification under sub-section (2) of section 3, a petition claiming a right, title or interest in any property included in the consolidated list except a right, title or interest in the Gurdwara itself; and such petition shall be signed and verified by the person forwarding it in the manner provided in the Code of Civil Procedure 1908, for the signing and verification of plaints and shall specify the nature and the grounds of the claim. 10 V of 1908

**Notification of property not claimed under section 5 and effect of such notification.** 6. The Central Government shall, as soon as may be, after the expiry of the period of making a claim under the provisions of section 5 publish a notification specifying the rights, titles or interests in any properties in respect of which no such claim has been made and the publication of the notification shall be conclusive proof of the fact that no such claim was made in respect of any right, title or interest specified in the notification. 20

**Petition to have a Gurdwara declared a Sikh Gurdwara.** 7. (1) Any fifteen or more Sikh worshippers of a Gurdwara, each of whom is more than twenty one years of age and is a resident in the district in which the Gurdwara is situated, may forward to the Central Government within three years from the commencement of this Act or within such further period as the Central Government may by notification fix for this purpose, a petition praying to have the Gurdwara declared to be a Notified Sikh Gurdwara. 25

(2) A petition forwarded under the provisions of sub-section (1) shall state the name of the Gurdwara and of the district in which it is situated and shall be accompanied by a list verified and signed by the petitioners of all rights, titles or interests in immovable properties situated in India inclusive of the Gurdwara and all monetary endowments yielding recurring income or profit received in India which the petitioners claim to belong within their knowledge to the Gurdwara; the name of the person in possession of any such right, title or interest and if any such person is insane or 35

minor, the name of his legal or natural guardian or if there is no such guardian, the name of the person with whom the insane person or minor is residing and if any such right, title or interest is alleged to be in possession of the Gurdwara through any person the name of such person shall be stated in the list.

(3) On receiving such petition, the Central Government shall, as soon as may be, publish it along with the accompanying list and shall cause it and the list to be published in such manner as may be prescribed at the headquarters of the District in which the Gurdwara is situated and shall also give such other notice thereof as may be prescribed :

Provided that such petition may be withdrawn by the Board at any time before publication and on such withdrawal it shall be deemed as if no petition had been forwarded under the provision of sub-section (1).

(4) The publication of a notification under sub-section (3) shall be conclusive proof that the provisions of sub-sections (1), (2) and (3) above have been complied with.

8. Any hereditary office holder or any fifteen or more worshippers of the Gurdwara, each of whom is more than twenty one years of age and was at the commencement of this Act a resident of the district in which the Gurdwara is situated, may within ninety days from the date of publication of the notification under sub-section (3) of section 7 forward to the Central Government a petition signed and verified by the petitioner or the petitioners as the case may be, claiming that the Gurdwara is not a Sikh Gurdwara.

Petition to have it declared that a place asserted to be a Sikh Gurdwara is not such a Gurdwara.

9. (1) If no petition has been presented under section 8 in respect of a Gurdwara to which a notification published under section 7(3) relates, the Central Government shall after the expiration of ninety days from the date of said notification publish a notification declaring the Gurdwara to be a Sikh Gurdwara.

Effect of non-presentation of a petition under section 8.

(2) The publication of a notification under sub-section (1) shall be conclusive proof that the Gurdwara is a Sikh Gurdwara and the provisions of this Act shall apply to the Gurdwara with effect from the date of the publication of the notification.

10. (1) Any person may forward to the Central Government within ninety days from the date of the publication of a notification under Section 7(3) a petition claiming a right, title or interest in any property included in the list so published and such petition shall be signed and verified by the petitioner in the manner provided by

Petition of counter claim.

V of 1908.

the Code of Civil Procedure 1908 for the signing and verification of plaints and shall specify the nature of the right, title or interest claimed and the grounds of the claim.

(2) The Central Government shall as soon as may be, after the expiry of the period for making such claim publish a notification specifying the rights, titles or interests in respect of which no such claim has been made and the notification shall be conclusive proof of the fact that no such claim was made in respect of any right, title or interest specified in the notification.

**Claim for compensation by hereditary office-holder or his presumptive successor.** 11. Any hereditary office-holder of a Gurdwara in respect of which a notification has been published under section 7(3) or a presumptive successor of such office holder may forward to the Central Government within ninety days from the date of such publication, a petition claiming to be awarded compensation on the ground that such office-holder or his presumptive successor will suffer pecuniary loss if the Gurdwara is declared to be Sikh Gurdwara and such petition shall be signed and verified by the petitioner in the manner provided in the Code of Civil Procedure, 1908 for the signing and verification of plaints.

V of 1908.

### PART III

20

#### Appointment of and proceeding before a Tribunal

**Constitution and procedure of Tribunal.**

12. (1) For the purpose of deciding claims made in accordance with the provisions of this Act, the Central Government may from time to time appoint one or more Tribunals consisting of—

(a) A president who shall be a retired judge of a High Court.

(b) Two other members of whom one shall be a District Judge and the other shall be an advocate of a High Court who has been in practice for a period of not less than ten years:

Provided that nothing in this sub-section shall be deemed to prevent the appointment of a President of the Tribunal before the appointment of any other member.

(2) Whenever a vacancy occurs in a Tribunal by reason of the removal, resignation or death of a member, the Central Government shall appoint another person to fill the vacancy and upon his joining the Tribunal the trial shall be continued as if he has been on the Tribunal from the commencement of the trial.

(3) If more Tribunals than one are constituted, the Central Government may by notification direct which Tribunal may

entertain petitions relating to a particular Gurdwara or Gurdwaras situated in any state and may at any time transfer any proceedings from one Tribunal to another as it may deem proper.

V of 1908. (4) A Tribunal shall have the same powers as are vested in a Court under the Code of Civil Procedure, 1908 and shall have unlimited jurisdiction as regards value throughout India and shall have no jurisdiction over any proceedings other than that expressly vested in it by this Act.

V of 1908. (5) The proceedings before a Tribunal shall so far as may be 10 and subject to the provisions of this Act, be conducted in accordance with the provisions of the Code of Civil Procedure, 1908:

Provided that no proceeding shall be taken by a Tribunal unless at least two members are present:

Provided further that notices and summons may be issued by 15 the President of the Tribunal or a member nominated by the President for this purpose.

(6) In case of a difference of opinion between the members of the Tribunal the opinion of the majority shall prevail:

Provided that if only two members are present of whom one is 20 the President and if they are not in agreement, the opinion of the President shall prevail; and if the President be not present and the two remaining members are not agreed, the question in dispute shall be kept pending until next meeting of the Tribunal at which the President is present and the opinion of the majority or of the 25 President when only two members are present, shall be deemed to be the opinion of the Tribunal.

(7) Save as otherwise provided in this Act a decree or order of a Tribunal shall be executed or otherwise given effect to by the District Court of the District in which the Gurdwara in connection 30 with which the decree or order was passed is situated, as if the decree or order had been a decree or order passed by such Court.

(8) The Central Government shall forward to a tribunal all petitions received by it under sections 5, 6, 8, 10 and 11 for disposal thereof in accordance with the provisions of this Act and the forwarding of petitions shall be conclusive proof that the petitions were received by the Central Government within the time prescribed in sections 5, 6, 10 and 11 as the case may be.

Issue as to  
whether a  
Gurdwara is  
a Sikh Gur-  
dvara.

13. (1) Notwithstanding anything contained in any other law in force, if in any proceeding before a tribunal it is disputed that a gurdwara should or should not be declared to be a Sikh Gurdwara, the tribunal shall, before enquiring into any other matter in dispute relating to the said gurdwara, decide whether it should or should not be declared a Sikh Gurdwara in accordance with the provisions of sub-section (2). 5

(2) If the tribunal finds that the gurdwara—

(i) was established by, or in memory of the Ten Sikh Gurus, or in commemoration of any incident in the life of any <sup>10</sup> of the Ten Sikh Gurus and was used for public worship by Sikhs, before and at the time of the presentation of the petition under sub-section (1) of section 7, or

(ii) owing to some tradition connected with one of the Ten Sikh Gurus, was used for public worship predominantly by <sup>15</sup> Sikhs, before and at the time of the presentation of the Petition under sub-section (1) of section 7, or

(iii) was established for use by Sikhs for the purpose of public worship and was used for such worship by Sikhs, before and at the time of the presentation of the petition under sub- <sup>20</sup> section (1) of section 7, or

(iv) was established in memory of a Sikh martyr, saint or historical person and was used for public worship by Sikhs, before and at the time of the presentation of the petition under sub-section (1) of section 7, or 25

(v) owing to some incident connected with the Sikh religion was used for public worship predominantly by Sikhs, before and at the time of the presentation of the petition under sub-section (1) of section 7,

the tribunal shall decide that it should be declared to be a Sikh <sup>30</sup> Gurdwara, and record an order accordingly.

(3) When a Tribunal has under the provisions of sub-section (2), recorded a finding that a Gurdwara should be declared to be a Sikh Gurdwara and no appeal has been instituted against such finding within the prescribed period or when an appeal has been instituted and dismissed or when in appeal against a finding that a Gurdwara should not be declared to be a Sikh Gurdwara, the High Court as the case may be, shall inform the Central Government and the Central Government shall as soon as may be, publish a 35

Notification declaring such Gurdwara to be a Sikh Gurdwara and the provisions of this Act shall apply thereto with effect from the date of the publication of such notification.

14. (1) In any proceedings before a tribunal, if any past or present office-holder denies that a right, title or interest recorded, in his name or in that of any person through whom he claims in a record of rights, or in an annual record, prepared in accordance with the provisions of the Land Revenue Acts, of various States and claimed to belong to a Notified Sikh Gurdwara, does so belong, and claims such right, title or interest belong to himself, there shall be a presumption that such right, title or interest belongs to the gurdwara upon proof of any of the following facts, namely,—

(a) an entry of the right, title or interest made before the first day of January 1957, in a record-of-rights, prepared at the time of a general assessment of the land revenue, in the name of the gurdwara or in the name of the holder of an office pertaining to the gurdwara as such, and not by name;

(b) an assignment of the land revenue, of, or of the proprietary right in, land at any time for the service or maintenance of the gurdwara notwithstanding that the assignment may be or may have been in the name of an office-holder, where the right claimed is an assignment of the land revenue of, or of the proprietary right in, the land, as the case may be;

(c) the dismissal or removal of an office-holder before the first day of January 1957 and the consequent transfer of the right, title or interest in question to his successor in office;

(d) the expenditure of the whole or part of the income derived from the right, title or interest in question ordinarily on the service or maintenance of the gurdwara;

(e) the acquisition of the right, title or interest in question from funds proved to have belonged to the gurdwara;

(f) the submission by the office-holder or any of his predecessors in office of accounts relating to the income from the right, title or interest in question to the worshippers or to a managing body;

(g) the devolution of the succession to the right, title or interest in question from an office-holder to the successor in office as such on two or more consecutive occasions; and

(h) any other fact which shows that the right, title or interest in question was at any time of the nature of a trust pertaining to the gurdwara or was purchased from funds of the nature of trust funds pertaining to the gurdwara.

claim for compensation by a hereditary office holder who has resigned or has been dismissed.

15. Any hereditary office-holder of a Notified Sikh Gurdwara 5 who, within twelve months after the date of the publication of a notification declaring the gurdwara to be a Sikh Gurdwara, has resigned office, or been removed from office otherwise than in accordance with the provisions of section 68 or under the provisions of section 85 or a presumptive successor of such office-holder, may 10 within ninety days from the date of the resignation or removal, as the case may be of such office-holder present a petition to a tribunal claiming to be awarded compensation on the ground that he has suffered or will suffer pecuniary loss owing to a change in the management of the gurdwara, and the tribunal may, notwithstanding the fact that such office-holder has voluntarily resigned, order compensation to be paid in accordance with the provisions of this Act, as if such office-holder had been unlawfully removed from his office.<sup>15</sup>

Matters for consideration in awarding compensation.

16. (1) In deciding claims for compensations made under the 20 provisions of Section 15, a Tribunal shall take into consideration:—

(i) the past conduct of the claimant where such conduct has been or is in issue in a suit or other proceedings in a civil or Revenue Court instituted before 1st January 1957;

(ii) the conviction of the claimant by a criminal court for 25 an offence which in the opinion of the Tribunal involves moral turpitude or an order passed against him under the provisions of sections 109, 110 and 118 of the Code of Criminal Procedure, 1898;

(iii) the loss of income, not being of the nature of trust 30 income, incurred by reasons of an office-holder ceasing to hold office; and

(iv) all rights or privileges relating to residence, subsistence, service and other recognized allowances in cash or kind formerly enjoyed by the claimant.<sup>35</sup>

(2) In awarding compensation, a Tribunal shall, unless the parties agree to its being paid otherwise, order it to be paid out of the income accruing to the Gurdwara in which the office-holder held office in the form of an allowance payable annually on a specified date for any period but terminable in any case on the death of 40 the person compensated.

(3) If any person to whom compensation has been ordered to be paid by a Tribunal dies, his heir shall be entitled only to such sum as has become payable under the order but has not been paid.

17. Every sum ordered by a Tribunal to be paid out of the income Manner in  
 5 of a Gurdwara by way of compensation shall be deposited in the which comp-  
 treasury of the District Tehsil or Taluqa in which the Gurdwara is to be paid  
 situated and shall be paid to the person or persons entitled to it or recovered.  
 under such order or under section 16(3) in such a manner as may  
 10 be prescribed and if it is not so deposited, shall be recoverable out  
 of the property or income of such Gurdwara by the Collector as if  
 it were an arrear of land revenue.

18. (1) When a notification has been published under sub-section Suit for pos-  
 15 (3) of section 5 or sub-section (3) of Section 10, the Committee session of  
 of the Gurdwara concerned may bring a suit on behalf of the property on  
 Gurdwara for the possession of any property, a proprietary title in behalf of  
 which has been specified in such notification provided that the Notified  
 Gurdwara concerned is entitled to immediate possession of the Sikh Gur-  
 property in question and is not in possession thereof at the date of dhwara.  
 the publication of such notification.

20. (2) The suit shall be instituted in the principal Court of original jurisdiction in which the property in question is situated within a period of three years from the date of publication of such notification or from the date of the constitution of the Committee whichever is later.

25. 19. When it has been decided under the provisions of this Act Entry of  
 that a right, title or interest in immovable property belongs to a rights of  
 Notified Sikh Gurdwara or when a right, title or interest in such Gurdwara  
 property has been included in a list published under sub-section in revenue  
 (3) of section 5 or sub-section (3) of section 10, the Collector of records.  
 30. the district in which the property is situated shall on application being made to him on this behalf, cause an entry to be made in the records-of-rights, if any, of the estate in which the property is situated, recording the Gurdwara as the owner of such right, title or interest.

35. 20. When it has been decided under this Act that a right, title Power of  
 or interest in immovable property belongs to a Notified Sikh tribunal to  
 Gurdwara concerned or the person in whose favour, a declaration pass decrees  
 has been made, either party may within a period of one year from for posse-  
 the date of the decision or the date of the constitution of the com- sion in  
 mittee whichever is later, institute a suit before a tribunal claiming favour of the committee.

to be awarded possession of the right, title or interest in the immovable property in question, as against the parties to the previous petition and the tribunal shall, if satisfied that the claim relates to the right, title or interest in the immovable property, which has been held to belong to the Gurdwara or to the person in whose favour the declaration has been made, pass a decree for possessor accordingly. 5

**Exclusion of jurisdiction of courts.**

21. (1) No Court shall continue any proceedings in so far as such proceedings involve any claim relating to a Gurdwara to which a notification has been published under the provisions of sub-section (2) of section 3 or in regard to which a notification has been published under section 7(3) if such claim could have been made through a petition under any of the provisions of this enactment unless and until such Gurdwara is excluded from the operation of this Act. 10

(2) No court shall entertain or continue any suit or proceedings in so far as such suit or proceedings involve any claim to or 15 prayer for restoration of any person to an office in a Notified Sikh Gurdwara or any prayer for the restoration or establishment of any system of management of a Sikh Gurdwara other than a system of management established under the provisions of this Act.

(3) When any place has been declared by notification under the 20 provisions of this Act to be a Sikh Gurdwara, the right of any office holder thereof who holds office on the date of the publication of such notification to continue to hold his office shall be decided in accordance with the provisions of this Act.

**Transfer of Suits pending in court.**

22. (1) Where in any suit or proceeding pending at the commencement of this Act, or instituted after its commencement in a civil or revenue court, it has become or becomes necessary to decide any claim in connection with a Notified Sikh Gurdwara, which the court finds might be made under any of the provisions of this Act, within the prescribed time, the court shall frame an issue in 30 respect of such claim and shall forward record of the suit or proceedings to a tribunal.

(2) The tribunal shall, thereupon, proceed to hear and determine such issue and record its decision in the form of an order and shall return the record with a copy of its decision to the court and the 35 court shall then proceed to determine the suit or proceeding in accordance with such decision, subject to section 24.

23. No suit shall lie in any court to question anything purporting to be done by the Central Government or by a tribunal, in exercise of any powers vested in it by or under this Act. 40

24. (1) Any party aggrieved by a final order passed by a tribunal determining any matter decided by it under the provisions of this Act, may within ninety days of the date of such order appeal to the High Court, within whose jurisdiction the gurdwara in connection with which the order has been passed, is situated.

Appeals  
against order  
of Tribunal.

(2) No appeal or application for revision shall lie against an order of a tribunal except as provided for in sub-section (1).

(3) An appeal preferred under the provisions of this section shall be passed by a Division Bench of the High Court.

10 25. Except as provided in this Act, no court shall pass any order or grant any decree or execute wholly or partly, any order or decree, if the effect of such order, decree or execution would be inconsistent with any decision of a tribunal or any order passed on appeal therefrom under section 24.

Courts not  
to pass an  
order or  
execute a  
decree in-  
consistent  
with deci-  
sion of a  
tribunal.

15 26. Notwithstanding anything contained in any Act to the contrary, the court fee payable on documents and petitions of the description shall be specified by the Central Government from time to time and shall be paid in such manner as may be prescribed.

Court fees.

#### PART IV

20

##### *Control of Sikh Gurdwaras*

27. (1) For the purposes of this Act, there shall be constituted Board and for every Notified Sikh Gurdwara, a committee of management, and there shall also be constituted from time to time, a judicial commission in the manner hereinafter provided.

Control of  
Sikh  
Gurdwaras.

25 (2) The management of every Notified Sikh Gurdwara shall be administered by the committee constituted therefor, the Board and the Judicial Commission in accordance with the provisions of this Act.

28. Save as provided in this Act, it shall not be lawful for the Central Government or any State Government or for any executive officer of the said Central or State Governments as the case may be in his official capacity, to undertake or assume the superintendence of any land or other property granted for the support of or otherwise belonging to, any Notified Sikh Gurdwara; to take any part in the management or appropriation of any endowment made for its maintenance or to nominate or appoint any office holder of, or to be concerned in any way with such Gurdwara.

Govt. not  
to interfere  
with Gurd-  
waras except  
as provided  
in this Act.

Suits for relief claimable by application barred.

29. Notwithstanding anything contained in any Act to the contrary, no suit shall be instituted or continued in any court claiming any relief in respect of the management or administration of a Notified Sikh Gurdwara if such relief might be or might have been claimed in an application made under the provisions of this Part or succeeding parts of this Act. 5

## PART V

### *The Board*

Board and its offices.

30. (1) The Board shall by the name of "Shiromani Gurdwara Parbandhak Committee, Amritsar" be a body corporate and shall have 10 a perpetual succession and a common seal and shall by such name sue and be sued.

(2) The Board through its Secretary shall have its Head Office at Amritsar and have one or more sub-offices at other places in India as the Board may from time to time decide: 15

Provided that all communications and notices to the Board shall be addressed to its office at Amritsar.

Composition and constitution of the Board.

31. (1) The Board shall consist of:—

(i) 100 elected members.

(ii) The head ministers of Sri Darbar Sahib Amritsar, Sri 20 Akal Takhat Sahib, Amritsar, Sri Takhat Kesgarh Sahib Anandpur, Sri Takhat Patna Sahib and Sri Takhat Hazur Sahib, Nanded.

(iii) 10 members resident in India, co-opted by the members of the Board described in clauses (i) and (ii).

(2) The Central Government shall, as soon as may be, call a 25 meeting of the members of the Board described in clauses (i) and (ii) for the purpose of co-opting the members described in clause (iii) and after the members have been co-opted, it shall notify the fact of the Board having been duly constituted and the date of the co-option shall be deemed to be the date of the constitution of the 30 Board.

Constituen-  
cies for  
election of  
members of  
the Board.

32. The Constituencies by which the elected members of the Board shall be returned, shall be specified by the Central Government and each constituency shall return a single member:

Provided that the Central Government after consultation with the 35 Board may from time to time alter the local limits of any constituency.

33. (1) A person shall not be qualified to be elected or co-opted as a member of the Board unless he is an elector for any constituency specified by the Central Government.

(2) A person shall be disqualified for being elected or co-opted to 5 and for being a member of the Board if such person—

- (a) has not attained the age of 35 years;
- (b) being a Keshadharī Sikh is not an Amritdhari;
- (c) is a Patit;
- (d) takes alcoholic drinks;
- 10 (e) cannot read or recite Path of Sri Guru Granth Sahib;
- (f) holds any office of profit under the Government of India or under the Government of any State or under any corporation in which the Central or State Government has any share or financial interest;
- 15 (g) is a minister other than those specified in clause (ii) of sub-section 1 of section 31 of any Notified Sikh Gurdwara or is a paid servant thereof or of the Board;
- 20 (h) has been convicted of any offence involving moral turpitude unless a period of ten years has elapsed since his release.
- 25 (i) has been dismissed from any office under Government of India, or the Government of any State or under Board or from any Notified Sikh Gurdwara for corruption or misbehaviour involving moral turpitude unless a period of ten years has elapsed since his dismissal;
- (j) is of unsound mind;
- (k) is an undischarged insolvent.

(3) If any person having been elected or co-opted member of the Board subsequently becomes or is found to be by the Board subject 30 to any of the disqualifications enumerated in sub-section 2, he shall forthwith cease to be a member thereof.

34. (1) Elections of members of the Board under the provisions of this Act shall be held on dates to be fixed by the Central Government.

(2) An electoral roll shall be prepared in such manner as may be prescribed for every constituency, on which shall be entered the names of all persons entitled to be registered as electors in that constituency.

Qualifications of  
members of  
the Board.

Date of the  
Board  
Elections.

Qualifications of electors.

35. (1) Every person shall be entitled to have his name registered on the electoral roll of a constituency constituted for the election of a member of the Board who—

- (i) is a resident in that constituency;
- (ii) is a Sikh more than 25 years of age, who has had his name registered as a voter in such manner as may be prescribed:

Provided that no person shall be registered as an elector who—

- (a) cannot read or write Gurmukhi;
- (b) trims or shaves his beard or *Keshas*, except in case 10 of Sehajdhari Sikhs;
- (c) smokes;
- (d) takes alcoholic drinks;
- (e) cannot verbally recite Japji Sahib.

(2) Every person registered on the electoral roll for the time 15 being in force for any constituency for the election of a member of the Board shall be entitled while so registered to vote at an election of a member for that constituency provided that no person shall be entitled to vote at an election for more than one constituency.

Term of Membership of the Board. 36. (1) The member of the Board shall hold office for five years 20 from the date of its constitution or until the constitution of a new Board, whichever is later.

(2) When a vacancy occurs in the Board owing to the death or resignation of a member or for any other reason, a new member shall be elected or co-opted as the case may be, in the manner in which the 25 member whose seat is to be filled was elected or co-opted.

Meetings of the Board. 37. (1) The Board shall meet at least three times in each year.

(2) Meetings of the Board other than the first meeting shall be called by fourteen days' notice in writing served on every member of the Board in such manner as may be prescribed by bye-laws made 30 by the Board but the first general meeting of the Board shall be held at a time not later than one month after the Central Government has notified that it has been constituted and notice thereof shall be given by notification in Official Gazette.

(3) An annual general meeting of the Board shall be held in every 35 year in the month of March for purpose of adopting budget.

(4) The powers vested by this Act in the Board in General meeting shall not be exercised except by the Board at a meeting at which 25 or more members are present.

38. Except as otherwise provided by this Act, all questions or decisions before the Board or its executive Committee shall be decided by a majority of the votes of the members present and in the case of an equality of votes, the Chairman shall have a second or casting vote.

39. The President shall be the Chairman at the meetings of the Board and of the executive Committee and in his absence the Vice-President shall be the Chairman.

40. (1) The Board shall at its first general meeting elect by a ballot one of its members to be President and another to be Vice-President to be known as office-bearers of the Board, and shall also at the same meeting in like manner elect seven of its members to be members of the executive Committee of the Board and the office-bearers and members so elected shall be the Executive Committee of the Board.

(2) The Executive Committee of the Board shall exercise on behalf of the Board all powers conferred on the Board under the Act, which are not expressly reserved to be exercised by the Board in general meeting.

20 41. (1) If a vacancy occurs in the executive committee, the remaining members of the executive committee, may, if the vacancy is that of an office-bearer, appoint one of themselves, or if the vacancy is that of any member other than an office-bearer, nominate any member of the Board temporarily to fill the vacancy until the next 25 following general meeting of the Board, and the Board shall at such meeting elect a member of the Board to fill the vacancy.

(2) A member of the executive committee of the Board may resign the office by giving notice to the President, and an office-bearer may resign his office by giving notice to the executive committee, and such 30 resignation shall have effect from the date on which the resignation was accepted by the President or executive committee, as the case may be.

42. If any member of the Board at any time becomes a member of a committee of management or an advisory committee, he shall 35 forthwith cease to be a member of the Board.

Member of  
the Board  
not to be  
member of a  
committee.

43. Any office-bearer of the Board may receive out of the fund of the Board such salary or other remuneration as may from time to time be fixed by the Board in general meetings.

Remunera-  
tion of office-  
bearers.

~~Resignation  
of members.~~

44. A member of the Board may resign by giving notice to the President and an office-bearer may resign his office by giving notice to the Board and such resignation shall have effect from the date on which the resignation was accepted by the President or the Board as the case may be.

5

~~Staff of the  
Board.~~

45. (1) The Board shall from time to time appoint one chief Secretary, and shall further appoint one or more persons to be its secretary, who will be in-charge of different departments and may suspend, remove, dismiss or otherwise punish any official so appointed.

(2) Subject to the provisions of this Act, and the rules and bye-<sup>10</sup> laws made thereunder, the executive committee of the Board may appoint such other officers and the staff, as it may deem to be necessary for the due performance by itself of its duties and may from time to time determine the number, designation, grade and scales of salary or other remuneration of such servants and may at <sup>15</sup> any time fine, reduce, suspend, remove, dismiss or otherwise punish any officer or servant so appointed.

## PART VI

### *The Judicial Commission*

~~The Judicial  
Commission.~~

46. (1) The Judicial Commission shall consist of a single member <sup>20</sup> who shall be an Amritdhari Sikh and the Central Government may from time to time appoint a commission or more commissions than one, if necessary.

(2) No person shall be appointed to be a member of the Commission unless he has been an advocate of any High Court for an <sup>25</sup> aggregate period of not less than ten years.

(3) A member of the commission shall be selected by the Central Government out of the list of qualified persons prepared and maintained as described in section 47.

~~Board to  
submit a list  
of names.~~

47. (1) For the purpose of constitution of such Commission, every <sup>30</sup> Board shall, within ninety days of its constitution, submit a list of the names of five persons nominated by the Board and the Central Government shall, after being satisfied that the persons so nominated are qualified as required by section 46, record the list.

(2) A person whose name is on the list described in sub-section <sup>35</sup> (1) shall be entitled to have his name retained thereon for 5 years after his nomination has been recorded.

(3) If any person whose name is on the list dies or applies to the Board to have his name removed therefrom, the Board shall inform the Central Government and his name shall be removed from the list.

5 (4) The Central Government shall on request being made to it by the Board remove from the list, the name of any person whose name has been on the list for more than 5 years provided that the name of any person shall not be so removed while such member is a member of the Commission.

10 (5) When a name has been removed from the list, the Board shall nominate a qualified person for the purpose of filling the vacancy and the Central Government shall after being satisfied that such person is qualified place his name on the list.

48. If any person, who is a member of the Board or of a Committee Member o f  
15 is appointed to be a member of the Commission and accepts the the Board or  
appointment, he shall forthwith cease to be a member of the Board or  
Committee as the case may be.  
of a committee to resign if appointed a member of the Commission.

49. (1) The member of the Commission, while he continues as Salary of the  
such shall receive such remuneration and travelling expenses as may member and  
20 be fixed from time to time by the Central Government in consultation officers of the  
with the Board and shall be deemed to be public servant, while he Commission.  
continues as such, within the meaning of section 21 of Indian Penal  
XLV of 1860 Code.

(2) The Central Government may from time to time appoint such  
25 officers and staff as it may deem to be necessary for the performance  
of its duties by the Commission and the officers and servants so  
appointed shall while they continue as such be deemed to be public  
servants within the meaning of section 21 of the Indian Penal Code.  
XLV of 1860

(3) The net expenses arising from the appointment of the  
30 Commission including the remuneration of its member, officer and  
the staff shall be defrayed by the Board.

(4) Any sum due to the Central Government under the pro-  
visions of sub-section (3) shall, if not recovered within a year after  
a demand has been made, be recoverable, as if it were an arrear  
35 of land revenue

~~Court office  
and jurisdiction of the  
Commission.~~ 50. (1) The Commission shall have its Court and office at such place or places as may be fixed by the Central Government from time to time in consultation with the Board.

(2) The Commission shall for the purpose of deciding any matter which it is empowered to decide under the provisions of this Act, have the same powers as are vested in a court by the Code of Civil Procedure 1908, and shall have jurisdiction unlimited as regards value, throughout India and shall have no jurisdiction over any proceedings other than is expressly vested in it by the Act. 10

V of 1908.

(3) The proceedings of the Commission shall, so far as may be and subject to the provisions of this Act, be conducted in accordance with the provisions of the Code of Civil Procedure 1908, and save as otherwise provided by this Act, all orders of the Commission shall be final. 15

V of 1908.

(4) Notwithstanding anything in any enactment to the contrary no document shall be inadmissible in evidence in any proceedings before the Commission on the ground that it is not duly stamped or registered.

~~Distribution  
of work if  
more Com-  
missions than  
one are con-  
stituted.~~ 51. (1) If more Commissions than one are constituted, the Central Government may by notification direct, which Commission may entertain applications relating to a particular gurdwara or gurdwaras situated in any specified State and may at any time transfer proceedings from one Commission to another as it may deem proper. 20 25

(2) The language of the Commission shall be such as the Commission may from time to time determine.

~~Execution of  
the orders  
of the Com-  
mission.~~ 52. (1) A decree or order of the Commission shall be executed or otherwise given effect to by the District Court of the district in which the gurdwara in connection with which the decree or order was passed is situated, or by the District Court to which the Commission directs that any decree or order shall be sent for this purpose as if the decree or order had been a decree or order passed by such court. 30

(2) At the time of making a final order the Commission shall also make an order fixing the total amount of costs payable and specifying the persons or parties by and to whom costs shall be paid. 35

53. (1) If a vacancy occurs in the Commission it shall be filled by the appointment by the Central Government of some other qualified persons in the same manner as that in which the person whose seat is to be filled was appointed.

5 (2) The Central Government may with consultation of the Board and shall on request being made to it for this purpose by the Board, remove any member of the Commission if—

(i) he refuses to act or becomes incapable of acting or unfit or undesirable to act as a member, or

10 (ii) If it is satisfied after such enquiry as it may deem necessary that he has flagrantly abused his position as a member, or

(iii) if he has served as a member for more than 10 years.

(3) The Central Government may at any time, when there is no proceeding pending before the Commission dissolve the Commission.

54. If it is necessary to decide for the purposes of the constitution of the Board, or a Committee under the provisions of this Act, whether a person has or has not become *Patit*, the question shall on application being made thereunder for this purpose be decided by the Commission.

## PART VII

### Committees of Gurdwaras

55. (1) The Board shall be the Committee of Management for Board as 25 the Gurdwaras known as:— Committee of management and advisory committees.

(i) Sri Akal Takhat Sahib, Sri Darbar Sahib, Baba Attal Sahib and all other Notified Sikh Gurdwaras within the municipal areas of both Amritsar and Tarn Taran (Punjab).

30 (ii) Shri Takhat Keshgarh Sahib Anandpur (Punjab) and all other Notified Sikh Gurdwaras connected therewith.

(iii) The Notified Sikh Gurdwaras at Mukatsar (Punjab).

(iv) Gurdwara Dukh Niwaran Sahib Patiala, Gurdwara Fatehgarh Sahib Sarhand and all other Scheduled Gurdwaras within the boundaries of Patiala Division of Punjab State.

(v) Gurawara Sis Ganj Sahib, Gurdwara Rikab Ganj Sahib and all other Notified Sikh Gurdwaras within the boundaries of Delhi.

(vi) Sri Takhat Sahib Patna and all other Notified Sikh Gurdwaras within the boundaries of Bihar State. 5

(vii) Sri Takhat Hazoor Sahib Nanded (Bombay) and all other Notified Sikh Gurdwaras within the boundaries of Bombay State.

(viii) Gurdwara Bari Sikh Sangat Harrison Road, Calcutta and 11 other Notified Sikh Gurdwaras within the boundaries of Bengal and Assam States.

(ix) Gurdwara Pili Bhit Nainital, Gurdwara Sikh Sangat Banaras and other Notified Sikh Gurdwaras situated within the areas of the Uttar Pradesh State.

(x) Gurdwaras other than those specified in (i) to (ix) 15 in the Union territory. -

(xi) All other notified Sikh Gurdwaras within the boundaries of Madhya Pradesh, Orissa, Madras, Kerala, Andhra Pradesh, Rajasthan and Kashmir.

(2) The Board shall prepare a scheme of administration and 20 management of the Gurdwaras described in sub-section (1) and the property, endowments, funds and incomes thereof. Thereafter, such schemes may be modified or amended from time to time by a resolution of the Board passed by a majority of two thirds of the members present in the meeting. 25

Provided that any scheme so prepared shall provide that 10 per cent. of the gross income of every gurdwara enumerated in sub-section (1) be earmarked for preaching, propagation and promotion of Sikh religion.

(3) For the purposes of advising the Board in the discharge of 30 its functions as Committee of Management of the Gurdwaras specified in sub-section (1), the Board shall constitute an Advisory Committee for each of the groups of Gurdwaras mentioned in (i) to (ix) consisting of such number of persons not exceeding seven and not less than three as the Board may think fit, such persons being 35 chosen from among the residents of the State in which the Gurdwaras are situated.

56. (1) For every Notified Sikh Gurdwara other than a gurdwara specified in section 55, a Committee shall be constituted after it has been declared to be a Sikh Gurdwara under the provisions of this Act provided that the Central Government may with

Committees  
of Gurd-  
waras other  
than those  
specified in  
section 55.

5 consultation of the Board by notification direct that there shall be one Committee for any two or more such Gurdwaras specified in the notification.

(2) Any committee other than an advisory committee for which provision is made in section 55, shall consist of three to five members, who will all be nominated by the Board and who shall be all residents in the District or Taluqa in which the Gurdwara or one of the Gurdwaras to be managed by the Committee is situated.

(3) The Committee described in sub-sections (1) and (2) shall be constituted as soon as may be after the constitution of the Board and every committee shall continue for seven years from the date of its constitution or until a new committee has been constituted, whichever is later.

(4) As and when the members of the committee described above have been nominated, the Government of the State in which the Gurdwara or Gurdwaras are situated shall notify this fact stating that the committee has been duly constituted and the date of the publication of that notification shall be deemed to be the date of the constitution of the committee.

25 (5) Every committee shall be a body corporate by the name of Committee of Management of the Gurdwara or Gurdwaras under its management and shall have perpetual succession and a common seal and shall by such name sue and be sued.

57. A person shall not be nominated by the Board to be a member of a Committee if he—

Qualification  
for being a  
member of a  
Committee.

- (i) is a member of the Board of an Advisory Committee, or
- (ii) is less than 31 years of age, or
- (iii) is a Patit or not a Sikh, or
- 35 (iv) is of unsound mind or an undischarged insolvent, or
- (v) is a minister or a paid servant of a Notified Sikh Gurdwara, or
- (vi) being a Keshadhari Sikh is not an Amritdhari, or

(vii) takes alcoholic drinks, or

(viii) cannot read or write Gurmukhi, or

(ix) is suffering from any of the disqualifications mentioned in clauses (f) to (k) of sub-section (2) of section 38.

Removal of  
members of  
a Commit-  
tee.

58. (1) If any person having been nominated a member of the Committee becomes or is found to be by the Board subject to any of the disabilities stated in section 57 he shall cease to be a member thereof.

(2) If any member of the Committee absents himself from three consecutive meetings of the Committee his name may be removed <sup>10</sup> from membership by the Board provided if he applies to the Board within one month of the removal of his name to be restored to such membership, the Board may restore him to office, provided further that no member shall be restored more than three times to the same Committee. <sup>15</sup>

(3) On occurrence of a vacancy in a committee, the Board shall appoint any other qualified person to fill the same.

Meetings of  
the Com-  
mittee.

59. (1) Every Committee shall meet at least six times in each year.

(2) A meeting of the Committee shall be called by the President <sup>20</sup> by seven days notice in writing provided that such notice may also be issued by a member authorised in writing by the president for this purpose.

(3) No business shall be transacted or any proceeding held by a committee except at a meeting at which three or more members <sup>25</sup> are present.

President  
and chair-  
man of  
Committee  
and the pro-  
cedure  
thereof.

60. (1) Every Committee shall at its first meeting elect a member to be a President who shall hold office during the continuance of the Committee or until he resigns or ceases to be a member of the Committee. <sup>30</sup>

(2) At meetings of the Committee the President shall be the Chairman and if he is absent the members present shall elect one of themselves to be Chairman for purpose of the meeting.

(3) All questions which come before the Committee shall be decided by a majority of votes of the members present and in case <sup>35</sup> of an equality of votes the Chairman shall have a casting vote.

(4) The minutes of the Committee shall be recorded in writing in a minute book and the record shall be signed by the Chairman of the meeting.

(5) A member or President of a Committee may resign his office by giving notice to the Board and such resignation shall take effect from the date of its acceptance by the Board.

(6) The Committee constituted under Section 55 shall not be effected by any other provision of this Part.

### PART VIII

10

#### *Powers and Duties of the Board*

61. The Board shall in addition to the powers conferred upon the Board by this Act be the controlling body of all the Notified Sikh Gurdwaras and it shall be the duty of the Board to ensure generally that every Committee deals with the property and income of the 15 Gurdwaras or Gurdwara managed by it in accordance with the provisions of this Act, the rules framed thereunder and the direction and general superintendence over all the Committee shall also vest in the Board.

62. The Board, in general meeting may at any time, call upon 20 its executive Committee to report upon any matter within the jurisdiction of the Board and may require the executive Committee or its office-bearers to take such action as lies under this Act within the powers of the Board.

63. The Board, in any meeting may consider and discuss any 25 matter with which it has power under this Act to deal and shall also be competent to discuss and deal with any matter, which in its opinion vitally concerns the Sikh religion and its tenements.

64. (1) It shall be competent for the Board to hold and administer trust funds for religious, charitable, educational or industrial 30 purposes, whether such funds are derived from allotments duly made by a committee out of the surplus funds or income of a Gurdwara under its management or from donations or contributions or endowments made direct to the Board for such purposes.

(2) (i) Notwithstanding anything contained in any other law 35 for the time being in force or in this Act or in any administrative scheme, rules or by-laws framed under the Act, the Board shall be sole authority to receive, collect, realize and take possession from the Government Treasuries, Banks, Courts, Post Offices,

wheresoever situated or from Custodian, Evacuee Property, (Punjab) or any person, member or office-bearer of any local committee or Gurdwara Management Committee of any notified Sikh Gurdwara (in the territory in Pakistan known as Punjab) in possession of or against whom any kind of property or sums or dues recoverable by or payable to any notified Sikh Gurdwara left in the territory now known as Pakistan are still outstanding.

(ii) The payment made to the Board in pursuance of sub-section (i) shall constitute a valid discharge of the liabilities of the person or persons aforesaid. 10

(iii) This sub-section shall have retrospective effect as from the 15th day of August, 1947.

(3) (i) Notwithstanding any other provision of this Act, any sum of money belonging to any notified Sikh Gurdwara left in the territory now known as Pakistan and deposited with or received by the Board in pursuance of the provisions of Sub-section (2) on behalf of such Gurdwara shall be spent by the Board in the first place for the discharge of obligations legally incurred in connection with such Gurdwara, for the payment of allowances or salaries of the dependents, officers and servants connected with it and for its maintenance and improvement. 15  
20

(ii) When after providing for the purposes specified in sub-clause (i), there remains or appears likely to remain any surplus sum, or any portion of the deposit is not required for such purposes, it may be used for such religious, charitable, educational or industrial purposes under the control and management of the Board or by appointment of special committees or trusts elected by a majority of  $\frac{3}{4}$  of the Members of the Board in a general meeting as the Board, in a general meeting may determine. 25

Setting of  
schemes of  
administra-  
tion.

65. (1) When at any time the committee or the Board is of opinion that for the proper administration of the property, endowments, funds and income of a Notified Sikh Gurdwara a scheme should be settled, the Board and the committee shall consult together and if they agree upon a scheme, the scheme shall be described in writing and the committee shall give effect thereto. 30  
35

(2) If at such consultation the committee and the Board do not agree upon a scheme, the committee or the Board may apply to the Commission, and the Commission, after hearing such members of the committee and of the Board respectively, as may be deputed

for this purpose by the committee and the Board respectively, and any such other persons as it may consider proper to hear, may itself settle such scheme as it considers just and proper and pass an order giving effect thereto.

5 (3) When at any time the committee and the Board, after consultation together, are of opinion that a scheme settled under the provisions of sub-section (1) or sub-section (2) should, in the interests of the proper administration of the property, endowments, funds and income of the gurdwara, be set aside or modified, and 10 the committee and the Board are in agreement in respect of the matter, the decision of the Board and the committee shall be recorded and effect thereto given by the committee.

(4) If the committee or the Board is of opinion that in the interests of the proper administration of the property, endowments, 15 funds or income of a Notified Sikh Gurdwara a scheme settled under the provisions of sub-section (1) or sub-section (2) should be set aside or modified, and the Board and the committee are not in agreement upon the matter, the committee or Board may apply to the Commission to have the scheme set aside or modified as 20 desired, and the Commission, after hearing such members of the committee and of the Board respectively as may be deputed for this purpose by the committee and the Board respectively and any such other persons as it may consider proper to hear, may itself set aside or settle such scheme as it considers just and proper 25 and pass an order giving effect thereto.

66. (1) The Board may from time to time make bye-laws not inconsistent with the provisions of this Act and the rules made thereunder regulating its own procedure, functioning and the fees to be levied under Section 77.

30 (2) All the bye-laws framed under sub-section (1) shall take effect from the date of their publication in the Official Gazette of the Board.

## PART IX

### *Powers and Duties of the Committee*

35 67. Subject to the provisions of the Act, a committee shall have General full powers of control over the employees, office-holders, and powers of dependents of, and all properties and income of whatever description belonging to the Gurdwara or Gurdwaras under its manage- Committees.

ment and of enforcing the proper observance of all ceremonies and religious observances in connection with such Gurdwara or Gurdwaras and of taking all such measures as may be necessary to ensure the proper management of the Gurdwara or Gurdwaras and the efficient administration of the property, income and endowments thereof.

Ministers  
and staff of  
commit-  
tees.

68. (1) The Committee may appoint such ministers and the staff as it may deem necessary for the due performance by itself of its duties and may at any time fine, reduce, suspend or dismiss any such minister or member of the staff:

Provided that when the dismissal of a hereditary office-holder or of a minister is ordered by a committee the order shall, except when it is based on facts or conclusions established at a judicial trial or when such office-holder or minister is absconding be preceded by a recorded enquiry and at such enquiry a definite charge in writing shall be framed in respect of each offence and explained to such office-holder or minister, the evidence in support of it and any evidence which he may adduce in his defence shall be recorded in his presence and his defence shall be taken down in writing and on each of the charges framed a finding shall be recorded.

(2) Any minister or hereditary office-holder who has been dismissed, may within thirty days of the date of the order of dismissal, appeal either to the Board or to the Commission as he may elect and the order of the Board or the Commission as the case may be, shall be final.

(3) When no appeal is preferred against an order of the Committee dismissing a hereditary office-holder or a minister, such order shall be final.

(4) If in the opinion of the Board a hereditary office-holder or a minister of a Notified Sikh Gurdwara has rendered himself liable to dismissal, the Board may move the committee of such Gurdwara to dismiss him and if the committee does not within thirty days of being so moved, dismiss such office-holder or minister, the Board may apply to the Commission to order his removal and if the Commission finds that such office-holder or minister may be so dismissed, it may order his dismissal and such order shall be final.

(5) When an application has been made to the Commission, the Commission may suspend from office, pending its decision, the person against whom the application has been made.

(6) When, the Board acting as a committee under the provisions of Section 55, orders the dismissal or a hereditary office-holder or a minister, an appeal against such order shall be made within 30 days to the Commission, whose order shall be final and conclusive.

5      69. No exchange, sale, mortgage or other alienation of immovable property belonging to a Notified Sikh Gurdwara shall be valid unless it is sanctioned by the Committee of the Gurdwara and by the Board, provided that the sanction of the Board shall not be necessary in the case of lease of any such property for a term which does not exceed

10 the remaining term of the existing Committee by a period of more than one year.

70. A committee of a Notified Sikh Gurdwara may make regulations not inconsistent with the provisions of this Act or with any rules or bye-laws made thereunder to regulate its procedure:

Alienation of  
immovable  
trust  
property.

Powers of  
Committees  
to make  
regulations.

15      Provided that without the previous sanction of the Board no regulation shall be made—

(i) authorising by name or office any person to receive or sign acknowledgements of the receipt of any money on behalf of the committee, or

20      (ii) prescribing the form in which accounts, returns and reports relating to the management of a gurdwara shall be maintained or submitted.

71. All offerings made at or in connection with a Notified Sikh Gurdwara shall be deemed to be the property of such Gurdwara while the salary and allowances of a minister or other office-holders thereof and any property acquired by him out of his salary and allowances shall be the property of such minister or office-holder.

Offering  
to be the  
property  
of Gurdwara  
and sala-  
ries of office  
holders to be  
their proper-  
ty.

## PART X

### *Finances*

30      72. (1) Subject to the provisions of this Act, all properties and income of a Notified Sikh Gurdwara shall be used, in the first place, for the maintenance or improvement of the gurdwara; for the maintenance of religious worship and the performance and conduct of religious and charitable duties, ceremonies and observances connected therewith; for the propagation of Sikh religion; for the payment of allowances or salaries of dependents, officers and servants thereof; for the fulfilment of the objects of the endowments thereof; for the maintenance of the *langar*; for such religious, charitable or educa-

Objects on  
which the  
funds of a  
gurdwara to  
be spent.

tional purposes as the committee may consider necessary in connection therewith or for the discharge of any obligations legally incurred.

(2) When after providing for the purposes specified in sub-section (1), there remains or appears likely to remain any surplus sum or any income not required for any such purposes, the committee may by resolution passed by not less than two-thirds of its members, propose to allocate a part or the whole of such surplus sum or income to a particular religious, educational or charitable purpose and may, if the Board in writing sanctions such proposal, act in accordance therewith:

10

Provided that any proposal, so sanctioned to devote to such purpose income accruing during a period of more than three years may at any time not sooner than three years after the proposal was sanctioned be rescinded or varied by a subsequent resolution of the committee passed in like manner.

15

(3) Notwithstanding anything contained in sub-section (2) when it appears to the Board that after providing for the purposes specified in sub-section (1) there remains or is likely to remain any surplus sum or income not required for any such purposes, and the committee is not willing to devote such surplus sum or income to other purposes, the Board may apply to the Commission for an order allowing the Board to devote the whole or part or such surplus sum or income to a particular and specified religious, educational or other charitable purpose.

(4) When application has been made in accordance with the provisions of sub-section (3), the Commission may after hearing the objections, if any, of the committee or of any person having interest in the gurdwara concerned, if it is satisfied that the application is reasonable, determine what portion if any of such surplus sum or income shall be retained as a reserve fund for the gurdwara concerned and direct the remainder of the surplus sum or income to be devoted to any such religious, educational and charitable purpose as it may deem proper and the Commission may from time to time, on the application of the Board or of the committee or of a person having interest in the gurdwara concerned, rescind or vary any order passed under the provisions of this sub-section.

30

35

(5) Nothing contained in sub-sections (2), (3) and (4) shall apply to the Board when acting as a Committee of Management under section 55 of this Act. In the case of such a committee when after providing for the purposes specified in sub-section (1) there remains or appears likely to remain any surplus sum or any income not

40

required for such purposes, the committee may by a resolution passed by not less than two-thirds of the members present in the meeting, utilize or allocate a part or the whole of such surplus sum or income of any particular Gurdwara under its management to a particular religious, educational, charitable or industrial purpose:

Provided that the meeting is attended by not less than one half of the total members, constituting the committee:

Provided further that an allocation so made to devote to such purpose income accruing during a period of more than three years may at any time not sooner than three years after the allocation was made be rescinded or varied by a subsequent resolution of the Committee passed in the like manner.

73. (1) Every committee shall pay annually to the Board for the purpose of meeting the lawful expenses of the Board a contribution in money out of the income of the gurdwara or gurdwaras under its management.

(2) The proportion which such contribution shall bear to the annual income of a gurdwara shall be fixed for each gurdwara by the Board:

20 Provided that it shall not exceed one-tenth of such income.

(3) The Board shall be competent to reduce the amount of contribution due to the Board from any committee or gurdwara in any year for special reasons and the Board shall have power to prescribe the limit of annual income of the gurdwara or gurdwaras which may be totally exempted from making the contribution payable to the Board under the provisions of this section.

74. (1) The contribution payable under the provisions of Section 73, shall be paid by the committee of a gurdwara after such notice and in such manner as may be prescribed.

30 (2) If a committee fails after due notice to pay any sum payable by it under the provisions of sub-section (1) the Commission shall on application being made to it by the Board in this behalf call upon the committee to show cause why it should not be ordered to pay such sum, and may after hearing such member of the committee as may be deputed by the committee for this purpose pass an order directing the committee to pay the sum found payable either in a lumpsum or by instalments, as it deems fit.

General  
Board Fund.

75. (1) The Board shall establish and maintain a fund to be called the General Board Fund and there shall be placed to the credit thereof the following sums, namely:—

(i) all the annual contributions paid to the Board under the provisions of Sections 73 and 74; and 5

(ii) all the fees for copies of accounts and of entries in registers and other gurdwara records levied by the Board under the provisions of sub-section 3 of section 77;

(2) No sums other than those specified in sub-section (1) shall be placed to the credit of the General Board Fund. 10

(3) The General Board Fund shall be applied solely to the payment of expenses lawfully incurred by the Board in the exercise of its powers under the provisions of this Act, towards the discharge of obligations legally incurred and towards the maintenance, protection and support of such historical gurdwaras which in the opinion of the 15 Board cannot be maintained, protected or provided for otherwise:

Provided that if after paying such expenses and discharging such obligations and affording such protection any surplus sum remains, such surplus sum, may be spent by the Board on any religious, charitable, educational or industrial purposes and on such non-political 20 purposes as are connected with the general uplift and welfare of the Panth as the Board may deem fit.

(4) All the expenses arising from the administration of this Act or incurred under any provision of this Act, including the expenses relating to any Tribunal, Board or Commission, and remuneration of the members of all such Tribunal, Board or Commission and other expenses incidental thereto shall be met from the General Board Fund. 25

(5) Any expenses incurred by the Central Government or any State Government under any provision of this Act or for the ad- 30 ministration of this Act shall be recoverable from the General Board Fund and any such sum due to the Central or any State Government shall, if not recovered within a year after a demand has been made, be recoverable as if it were an arrear of land revenue. 35

Trust Fund.

76. (1) Every sum made over to the Board under the provisions of this Act by a committee of a Notified Sikh Gurdwara or otherwise received by the Board for a specified religious, charitable, industrial, or educational purpose shall be held by the Board as a trust and shall be devoted to the purpose specified. 40

(2) Every sum other than a sum specified in section 73 shall be paid to the credit of a fund to be called the General Trust Fund, out of which the Board in general meeting may from time to time make allotments for the discharge of any obligations legally incurred in connection therewith or for such religious, charitable, industrial or educational purposes as the Board may consider proper or for grants in aid for the maintenance, repairs or service of Notified Sikh Gurdwaras.

(3) The Board shall establish and maintain a separate fund in respect of each trust held in accordance with the provisions of sub-section (1) above, and may discharge out of each such fund any obligations legally incurred in connection therewith.

(4) Every sum received by the Board in connection with any fund shall be placed to the credit of the fund in such Bank or banks as the Board may direct and the Board may also invest any portion of its funds in one or more Government Securities or Defence or National Savings Certificates and the income or proceeds derived therefrom shall be credited to the fund from which the investment was made.

20 77. (1) The Board shall maintain regular accounts showing receipts on account of and expenditure out of the General Board Fund and separate similar accounts for each fund established under the provisions of sub-section (1) of Section 76 and for the General Trust Fund.

Board to maintain accounts of all trust funds and of General Board Fund.

25 (2) Any person having interest in a Notified Sikh Gurdwara shall, on application being made to the Board, be furnished with a copy, certified to be correct by the president or other member of the executive committee authorised by the president on this behalf, of the whole or of any specified part of such account.

30 (3) The Board shall charge for copies of accounts furnished under the provisions of sub-section (1) such fees as are charged for copies of records under the control of Deputy Commissioners of district under the rules for the time being in force in Punjab.

78. (1) The accounts described in section 77 shall be audited and examined once in every year by such auditor as may from time to time be appointed by the Central Government.

35 Audit of accounts.  
(2) For the purposes of any such audit and examination of accounts the auditor may, by a demand in writing, require from the Board or any member or servant of the Board the production before him of all books, deeds, vouchers and all other documents and papers which he deems necessary, and may require any person holding or accountable for any such books, deeds, vouchers, documents or

papers to appear before him at any such audit and examination, and to answer all questions which may be put to him with respect to the same or to prepare and submit any further statement which such auditor may consider necessary.

(3) Within thirty days after the audit and examination have been completed the auditor shall submit a report to the Board upon each account audited and examined and shall forward copies of his reports to the Central Government and to the Commission.

(4) The report of the auditor shall among other matters specify all items of expenditure which in his opinion are illegal, irregular or <sup>10</sup> improper, all cases of failure to recover money or property due to the Board, all instances of loss or wasteful expenditure of money or property due to negligence or misconduct and all instances in which any money or property has been devoted to any purposes not authorised by this Act. <sup>15</sup>

(5) The expenses incurred in the audit and examination of the accounts of any fund maintained by the Board in accordance with the provisions of this Act shall be paid out of that fund.

(6) If payment of the expenses referred to in sub-section (1) is not made within three months from the date of the submission of a <sup>20</sup> report as described in Sub-section (3) the Central Government may on application to it being made within six months from such date by the auditor, recover the amount due as if it were an arrear of land revenue.

Board to consider Auditor's report.

70. (1) The Board in general meeting next following the date of <sup>25</sup> the receipt of the auditor's report shall consider such report and satisfy itself that no expenditure shown therein has been incurred otherwise than in accordance with the provisions of this Act and shall pass such orders as are in its opinion necessary and proper to rectify any illegal, unauthorized or improper expenditure and may also <sup>30</sup> pass such further orders upon the report, as it may deem proper:

Provided that if the next general meeting falls on a day earlier than two months after the receipt of the report it may be considered in the general meeting next following.

(2) Within two months from the date of the consideration of the <sup>35</sup> report under sub-section (1) the Board shall cause the report and abstracts of each account to be published in at least one English and one Gurmukhi newspaper printed and published in India.

(3) If the Board fails to cause the report to be published in accordance with sub-section (2) the commission may get it so published <sup>40</sup> and the expenses incurred in this behalf shall be paid by the Board and shall be recoverable as if it were an arrear of land revenue.

80. (1) The executive committee shall lay before the Board at a general meeting to be held each year in March an estimate of the income and expenditure for the ensuing financial year of the Board and of each separate fund administered by the Board.

5 (2) The Board shall in general meeting take into consideration every estimate laid before it by the executive committee, and it shall be in the discretion of the Board to pass or reject such estimate or to modify or alter it and to pass it as so modified or altered.

81. (1) The committee of every Notified Sikh Gurdwara shall maintain a regular account showing all sums received on behalf of and all disbursements made out of the funds and income of the Gurdwara.

15 (2) Any person having interest in the Gurdwara shall on application to the Secretary of the Committee be furnished with a copy of the whole or any part of such account, or other records, and the committee shall for such copies charge such fees as are charged by the Board under Sub-section (3) of Section 77.

20 82. (1) Subject to the provisions of Sub-section (5) every account described in Section 81 shall be audited and examined once in every account.

(2) The accounts of the Board acting as Committee under the provisions of Section 55 shall be audited by an auditor who may act as an auditor under the provisions of Section 144 of the Indian Companies Act, 1913.

25 (3) The board shall maintain a list of not less than five auditors nominated by the Board with the previous sanction of the Central Government for the purpose of the audit of the accounts of committees other than those specified in Sub-section (2) and no auditor, whose name is not on the list, shall be appointed to audit such accounts.

(4) If within six months of the constitution of the Board, the Board has failed to nominate auditors as required by Sub-section (3) the Central Government may appoint such number of auditors as are necessary to complete the list.

35 (5) The Committee of any Notified Sikh Gurdwara whose gross annual monetary income does not exceed two thousand rupees, may, with the sanction of the Board cause the account of such Gurdwara to be audited less frequently than once in every year or may with like sanction dispense with the audit and examination of such account.

(6) For the purpose of any such audit and examination the auditor may, by a demand in writing, require from the committee or any member or servant of the committee the production before him of all books, deeds, vouchers and all other documents and papers which he deems necessary, and may require any person holding or accountable for any such books, deeds, vouchers, documents, or papers to appear before him at any such audit and examination and to answer all questions which may be put to him with respect to the same or to prepare and submit any further statement which such auditor may consider necessary. 10

**Report of  
Auditors.**

83. (1) Within thirty days after the audit and examination have been completed the auditor shall report to the committee of the Gurdwara upon the accounts audited and examined and shall forward a copy of his report to the Board and in case of the accounts of the Board acting as committee under the provisions of Section 55 shall 15 forward a copy to the commission and the Central Government also.

(2) The report of the auditor shall, among other matters, specify all items of expenditure which in his opinion are illegal, irregular or improper, all cases of failure to recover money or property due to the gurdwara, all instances of loss or wasteful expenditure of 20 money or property due to negligence or misconduct and all instances in which any money or property has been devoted to any purpose not authorised by this Act.

(3) The auditors' report upon the account of Gurdwara shall be open to inspection by any Sikh: 25

Provided that reasonable notice of intention to inspect is given by such Sikh to the Committee.

(4) The expenses incurred in the audit and examination of the accounts of a gurdwara shall be paid out of the income of the gurdwara. 30

**Budget of  
Committee.**

84. (1) Every committee shall submit each year to the Board at such time as may be prescribed an estimate of the income and expenditure for the ensuing financial year of the gurdwara or gurdwaras under its management.

(2) The Board shall scrutinise every estimate submitted in 35 accordance with the provisions of Sub-section (1), and if it finds that the estimate provides for expenditure not authorised by this Act, the Board shall direct the committee to modify or alter the estimate within a reasonable time in such manner as the Board may deem necessary, and if the committee does not within the time stated comply with the direction, the Board shall apply to the Com- 40

mission to pass an order calling upon the Committee to make such modification or alteration, and the Commission may, after making such enquiry as may in its opinion be necessary, pass any order that it considers just and proper.

5 (3) If the Board finds that an estimate submitted to it is not in accordance with the scheme of administration settled under the provisions of this Act for the gurdwara to which the estimate relates, the Board may direct the committee to modify or alter the estimate within a reasonable time in such manner as the Board may 10 deem necessary, and if the committee does not within the time stated comply with the direction, the Board may apply to the Commission to pass an order calling upon the committee to make such modification or alteration and the Commission may, after making such enquiry as may in its opinion be necessary, pass any order that it 15 considers just and proper.

(4) Nothing in this section shall apply to the committee constituted under the provisions of Section 55.

## PART XI

### *Miscellaneous*

20 85. (1) Notwithstanding anything contained in Section 92 of the Code of Civil Procedure, 1908, or in the Specific Relief Act, 1877, any person having interest in a Notified Sikh Gurdwara may, without joining any of the other persons interested therein, make an application to the Commission, against the Board, the Executive Committee of the Board, or the Committee, or advisory Committee 25 or against any member or past member of the Board, of the Executive Committee or of the Committee, or of the advisory Committee or against any office-holder, or past office-holder of the Gurdwara or against any employee past or present of the Board or Gurdwara in 30 respect of any alleged malfeasance, misfeasance, breach of trust, neglect of duty, abuse of powers conferred by this Act or any alleged expenditure on a purpose not authorised by this Act and the Commission, if it finds any such malfeasance, misfeasance, breach of trust, neglect of duty, abuse of powers or expenditure 35 proved, may consistently with the provisions of this Act and of any other law or enactment in force for the time being, direct any specific act to be done or forbear from the purpose of the remedying the same and may award damages or costs against the person responsible for the same, and may order the removal of any office-holder or member of the Board, Executive Committee, or committee or advisory Committee responsible for the same and may also 40

disqualify any member of the Board, Executive Committee, or committee or advisory Committee thus removed from such membership for a period not exceeding five years from the date of such removal.

(2) When an application has been made to the Commission under the provisions of Sub-section (1), the Commission may suspend from membership or office, pending its decision, the person against whom the application has been made. 5

(3) The Board or the Committee may make a similar application to the Committee, which may, in like manner dispose of it. 10

(4) The Board, committee or any person aggrieved by an order passed by the Commission under the provisions of Sub-section (1) or Sub-section (3), may within ninety days of the orders, appeal to the High Court of the State in which the gurdwara regarding the affairs of which such application has been made, is situate and the 15 orders of the High Court on appeal shall be final and conclusive.

**Notice of application to be given.**

86. No application shall be made under the provisions of Section 85 against the Board, its executive committee or committee until the expiry of two months after notice in writing has been delivered to the Board, its executive committee or to the committee as the 20 case may be, stating the cause of action, the name, description and place of residence of the applicant and the relief which he claims, and the application shall contain a statement that such notice has been delivered.

**Act of the Board or Committee not to be invalidated by informality.**

87. No act of the Board, or its executive Committee or of a committee shall be held invalid in any judicial proceeding on the ground of any defect in the constitution of the Board, executive committee or committee, as the case may be, or on account of any irregularity in the procedure of the Board, executive committee or committee, as the case may be, unless the defect or irregularity has occasioned 30 a failure of justice.

**Power of Central Government to make rules.**

88. (1) The Central Government may make rules not inconsistent with the Act to carry out all or any of the purposes of the Act. .

(2) In particular, and without prejudice to the generality of the foregoing power, the Central Government may make rules for-- 35

(i) the registration of electors; .

(ii) the nomination of candidates, the times of elections to be held under the provisions of this Act, the mode of recording and counting votes and the declaration of the results of such elections; 40

(iii) the conduct of enquiries and the decision of disputes relating to elections;

(iv) the definition of the practices at elections held under the provision of this Act which are to be deemed to be corrupt;

5 (v) the investigation of allegations of corrupt practices at such elections;

10 (vi) making void the election of any person proved to have been guilty of a corrupt practice or to have connived at or abetted the commission of, a corrupt practice or whose agent has been so proved guilty, or the result of whose election has been materially affected by the breach of any law or rule for the time being in force;

15 (vii) rendering incapable of office, either permanently or for a term of years, any person who may have been proved guilty as aforesaid of a corrupt practice or of conniving at or abetting the same;

(viii) prescribing the authority by which questions relating to the matters referred to in clauses (i), (ii), (iii), (v), (vi) or (vii) shall be determined;

20 (ix) the method by which the income of a gurdwara shall be calculated for the purpose of fixing the annual contribution described in Section 107; and

25 (x) the authority to whom, and the manner in which petitions, applications and records of suits or proceedings which may or should under the provisions of this Act be presented, made or forwarded, as the case may be, to a tribunal or to the commission as the case may be, are to be presented, made or forwarded when a tribunal or the Commission has not been constituted or is not sitting.

30 89. The Central Government may appoint any person or persons authorized by it to hold an enquiry into the conduct of or into allegations of corrupt practices or irregularities at, an election held under the provisions of this Act, with all or any of the powers conferred upon the Tribunals appointed to hold an enquiry into an

XLIII of 1951. 35 election by the provisions of Chapter III of Part VI of the Representation of Peoples Act, 1951 and may prescribe the procedure to be followed and provide for the execution of any order as to costs passed by such person or persons in such enquiry.

90. The Sikh Gurdwara Act, 1925 is hereby repealed.

Repeals Punjab Act.  
VIII of 1925.

Enquiries  
into conduct  
of gurdwara  
elections.

### STATEMENT OF OBJECTS AND REASONS

The Sikh Gurdwaras both historic and others are situated and scattered in almost all States and parts of India and are held in great esteem and reverence by the entire Sikh Community. For lack of uniform legislation they are managed and governed by different sets of rules and regulations mostly influenced by local customs and usages. There is no uniformity in the performance of Sikh rites and ceremonies in the Sikh Gurdwaras.

The Bill seeks to secure better administration of the Sikh Gurdwaras which may be duly notified by the Government by having more effective and efficient supervision and superintendence of the Board over the Committees of Management of Gurdwaras spread over various territories of India. The Bill also seeks to bring uniformity in the performance of all religion rites in all the Sikh Gurdwaras.

Hence this Bill.

16th June, 1958.

A. S. SAIGAL.

---

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 66 authorises the Board to make bye-laws consistent with this law as to the procedure, functioning and fees to be levied under clause 77.

Clause 70 authorises the Committee of Notified Sikh Gurdwara to make regulations consistent with this law as to the procedure of all proceedings.

Clause 87 of the Bill deals with the rule making power of the Central Government consistent with this law. The matters in respect of which rules may be made are set out in that clause.

The rule making powers sought to be conferred are of a normal character.

## BILL No. 87 OF 1958

**A Bill to make provision for inquiry into the existence and effects of, and for dealing with mischiefs resulting from, or arising in connection with, any condition of monopoly or restrictive or unfair business practices or other analogous conditions prevailing as respects the manufacture, import/export, trade or internal distribution of any goods.**

Be it enacted by Parliament in the Ninth Year of the Republic of India as follows:

Short title,  
extent and  
commencement.

1. (1) This Act may be called the Monopolies and Unfair Business Practices (Inquiry and Control) Act, 19

(2) It extends to the whole of India. 5

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint but in any case not later than three months after the Act is passed by Parliament.

Definitions

2. In this Act, unless the context otherwise requires: 10

(i) 'Commission' means a Commission appointed under Section 3 of this Act.

(ii) 'Monopoly' in relation to:

(a) manufacture means a condition, in which not more than three persons, firms, or any body corporate registered .5

under law or otherwise produce or control the production of not less than 25 per cent of the total production in India of any particular item of goods or groups of items connected with such particular item of goods or line of production;

5           (b) import, export, sales or internal distribution, means a condition in which not more than three persons, firms or any body corporate registered under law or otherwise and established for one or all of the activities referred to in this sub-clause, directly handle or control not less than 25 per cent of the total imports, exports, sales or distribution as the case may be, of any industrial, agricultural or other product or merchandise.

10

(iii) 'Restrictive practices' in relation to:

15           (a) manufacture means a condition in which a manufacturer or a group of manufacturers agree among themselves to artificially restrict production of a product with a view to create artificial scarcity, push up prices and create similar other difficulties for the public;

20           (b) export, imports, sales or internal distribution means a condition in which an importer, exporter, trader or a group of such people intentionally holds back supplies, creates artificial scarcity, pushes up prices or manipulates price fluctuations or such other similar practices which impede the natural flow of supplies or services, holds up the foreign trade of the country or in other ways harms the economy of the country.

25

(iv) 'Unfair Business Practices' means, a condition in which:

30           (a) a manufacturer, trader or distributor or a firm or firms or body corporate, doing manufacture, trade or distribution or a group of such persons or firms or bodies corporate, whether voluntarily or not, and whether by agreement or arrangement or not, so conduct their respective affairs as in any way to prevent or restrict competition in connection with the manufacture, trade or distribution of a given line of products or goods or services; and

35

40           (b) a manufacturer, trader or distributor or a firm or firms or body corporate doing manufacture, trade or distribution or a group of such persons or firms or body corporate corners scarce raw materials, withholds supplies of essential supplies, or puts pressure on agents, wholesalers or retailers to prevent them from dealing in products, goods or supplies which are in competition to his or their products:

Provided that nothing in this Clause shall include an undertaking in any trade, business, distribution, sale or manufacture in which the Central or any State Government has either a controlling interest or full ownership.

Constitution  
of Commis-  
sion.

**3. (1) The Central Government shall, by notification in the Official Gazette, constitute a Commission, to be called the Monopolies and Unfair Business Practices Commission.**

**(2) The Commission shall consist of not less than 5, and not more than 10 members including three members of Parliament of whom two shall be elected by the House of the People and one by the Council of States.**

**(3) The term of office of the Commission shall be three years, at the end of which period, the Commission shall be reconstituted.**

**(4) If a member becomes, in the opinion of the Central Government, unfit to continue in office or incapable of performing his duties under this Act, the Central Government shall, by notification in the Official Gazette, forthwith declare his office to be vacant.**

**(5) Any member may at any time by notice in writing to the Central Government resign his office.**

**(6) Such one of the members of the Commission who is a member of Parliament, as the Central Government may direct from time to time shall be its Chairman.**

**(7) The Commission shall appoint a Secretary to the Commission and such other officers and servants of the Commission as the Commission may determine with the consent of the Central Government.**

**(8) The expenses of the Commission shall be met from funds authorised by Parliament out of the Consolidated Fund of India.**

**(9) The quorum necessary for any meeting of the Commission shall be such as the Commission may from time to time determine:**

**Provided that the quorum necessary at any meeting held for the final settling of a report of the Commission shall not be less than two-thirds of the members of the Commission.**

**(10) In case of an equality of votes on any question at a meeting of the Commission, the Chairman shall have a second or casting vote.**

Duties of the  
Commission.

**4. (1) Where it appears to the Central Government that there are sufficient reasons to believe that there exists a situation in which it is necessary to deal with the mischiefs resulting from, or arising out of or in connection with any conditions of monopoly or restrictive or unfair business practices or other analogous conditions prevailing as**

respects the manufacture, export, import or internal distribution of any line of goods or services, the Government shall refer the matter to the Commission for investigation and report.

5 (2) A reference of a matter to the Commission for investigation and report shall specify the exact terms of such reference and also the description of goods to which the reference relates and may be so framed as either :

10 (a) to limit the investigation and report to the facts, that is to say, to the question whether a condition of monopoly, restrictive or unfair business practices exists as respects the manufacture, import, export, sales or internal distribution of any line of goods or services, and if so, in what manner and to what extent, and to the things which are done by the parties concerned as a result of, or for the purpose of, preserving such conditions; or

15 (b) to require the Commission to investigate and report on the facts as aforesaid and also to investigate and report whether the conditions in question or all or any of things done as aforesaid operate or may be expected to operate against the public interest.

20 (3) The Central Government may at any time vary any reference made by them of a matter to the Commission under the preceding provisions of this Act for investigation and report.

25 (4) The Central Government shall publish every such reference as aforesaid, and every variation of any such reference, in such manner as they think most suitable for bringing it to the notice of the persons concerned.

30 (5) It shall be the duty of the Commission to include in their report definite conclusions as to the questions covered by the reference and also to include therein such account of the reasons for their conclusions, and such a survey of the general position in respect of the subject matter of investigation, and of the developments, which have led to that position, as are in their opinion expedient for facilitating a proper understanding of the matter.

35 (6) The Commission shall make such recommendations as they think fit on the action to be taken by the Central Government to remedy the existing situation, or prevent such conditions developing in future.

40 (7) If any member of the Commission does not agree with the Commission's conclusions, or with the action proposed by the Commission in pursuance of those conclusions, he shall have the right to,

if so desired, include in the report a statement of his dissent and of his reasons for dissenting.

**Procedure and Powers of the Commission on reference.** 5

5. (1) The Commission shall determine its own procedure of investigation on any matter referred to it and shall have power to determine the extent, if any, to which persons interested or claiming to be interested in the subject matter of investigation are allowed to be present or to be heard, either by themselves or by their representatives, or to cross-examine witnesses or otherwise take part in the investigation of the Commission, and the extent, if any, to which the sittings of the Commission are held in public.

10 (2) For the purposes of any such investigations as aforesaid, the Commission or a member of the Commission nominated by them for that purpose may take evidence on oath, and for that purpose administer oaths.

(3) If it appears to the Commission expedient so to do for the 15 purpose of any such investigation as aforesaid, the Commission may, by notice in writing signed on their behalf by any of their members or by their Secretary—

(a) require any person to attend at a time and place specified in the notice, and to give evidence to the Commission or a member 20 of the Commission nominated by them for the purpose; or

(b) require any person to produce, at a time and place specified in the notice, to the Commission or to any person nominated by Commission for the purpose, any documents specified or described in the notice, being documents which are in the custody 25 of such person or under his control and relate to any matter relevant to the investigation; or

(c) require any person carrying on any trade or business to furnish to the Commission such estimates, returns or other information as may be specified or described in the notice and specify 30 the time, the manner and the form in which any such estimates, returns or information are to be furnished; and any person who refuses or, without reasonable excuse, fails to do anything duly required of him by such a notice or wilfully alters, suppresses or destroys any document which he has been required to produce 35 by such a notice, or in furnishing any estimate, return or other information required of him under such a notice, makes any statement which he knows to be false in a material particular or recklessly makes any statement which is false in a material particular, shall be guilty of an offence punishable under this 40 Act.

(4) Notwithstanding anything contained in the Banking Companies Act, the Commission may, for the purposes of any such investigation as aforesaid, require any Bank to submit to the Commission,

all records relating to the banking transactions of the persons, firms, or bodies corporate and such other particulars as regards the finance, accounts and other connected matters as the Commission may direct.

(5) For the purposes of any such investigation as aforesaid, the Commission may carry out a search or direct a search to be made of any factories, warehouses, offices, residential quarters or any business premises or establishments and the orders issued by the Commission for the purpose shall have the validity of warrants issued by authorised judicial authorities under Sections 96, 97 and 98 of the Criminal

V of 1898

Procedure Code.

(6) The Commission may pay to any person attending under this section to give evidence or producing documents thereunder, and to any person who whether in pursuance of a requirement under this section or not, furnishes estimates, returns of information to the Commission for the purposes of any such investigation as is referred to in the preceding provisions of this section, such sums in respect of his expenses as they think fit.

Nothing in this section shall be taken to require any person who has acted as counsel or solicitor for any person to disclose any privileged communication made to him in that capacity.

6. The Central Government shall place the report of the Commission before each House of Parliament:

Publication  
of reports  
of the  
Commission.

Provided that if it appears to the Central Government that the publication of any information contained in the report as to any secret process of manufacture would substantially damage the legitimate business interests of any person, and are satisfied that the portions of the report embodying that information could be omitted from the report without substantially affecting the sense, clarity or cogency of the report, or the value thereof as an aid to the proper understanding of the subject matter of the reference, the Central Government shall have the power to omit such portions from the report before its being laid before the Parliament.

7. Within three months of the laying of the report before the Parliament, the Central Government shall move a resolution in either House of Parliament for discussion and approval which will *inter alia* contain—

- (a) a gist of the recommendations of the Commission;
- (b) the action taken or proposed to be taken by the Government on each of the recommendations; and
- (c) the reasons for accepting or rejecting any of the recommendations.

**Requests for reference of any matter of the Commission.** 8. The Central Government shall place every year before Parliament, a review of the work of the Commission, including a list of requests received by the Central Government or the Commission from any of the undermentioned sections of the public for referring any matter to the Commission and the acceptance or rejections of 5 the requests with reasons:

- (a) members of Parliament;
- (b) consumers or a substantial section of consumers;
- (c) trade organisations;
- (d) Trade Unions; 10
- (e) organisations of Cottage and Small Scale Industries;
- (f) organisations of Peasantry;
- (g) organisations of Professional classes; or
- (h) local authorities, such as Municipalities, Panchayats, District Boards etc. 15

**Penalties.** 9. Every person or a director, general manager, secretary or other similar officer of a body corporate, who is guilty of an offence under this Act shall be liable on summary conviction to imprisonment for a term not exceeding five years or to a fine not exceeding Rs. 1,00,000 or both. 20

### STATEMENT OF OBJECTS AND REASONS

Instances of malpractices in the industrial and commercial spheres of our country's economic activity, intended, *inter alia*, to acquire a monopolistic position in production and distribution are today on the increase. Such practices, bring in their train a series of harmful results to the nation's economy, which it is necessary not merely to check, but also to prevent. The monopolistic and restrictive practices which inevitably result in increasing concentration of the means of production and distribution of supplies and services are incompatible with any proclaimed goal of attaining a socialist pattern of society.

In the United Kingdom also, the Monopolies and Restrictive Practices are subjected to control and enquiry by law. The present Bill is based on the U.K. enactment.

NEW DELHI;  
*The 8th July, 1958.*

K. T. K. TANGAMANI.

### FINANCIAL MEMORANDUM

Clause 3 of the Bill contemplates appointment of a Commission called Monopolies and Unfair Business Practices Commission to investigate and report on unfair Business practices when a reference on the subject is made to that body.

- The expenditure on the honorarium to be granted to members, on the staff and other incidental charges on account of the setting up of the Commission is likely to be Rs. 48,000/- per annum.

## BILL No. 77 OF 1958.

*A Bill further to amend the Code of Criminal Procedure, 1898.*

Be it enacted by Parliament in the Ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Code of Criminal Procedure (Amendment) Act, 19

Short title,  
extent and  
commencement.

5 (2) It extends to the whole of India.

(3) It shall come into force at once.

V of 1898.

2. In section 107 of the Code of Criminal Procedure, 1898 (hereinafter referred to as the principal Act), to sub-section (1) of section 107, the following provisos shall be added, namely:

10 (1) “Provided that no such proceeding shall be taken against any person in respect of any of his action or contemplated action connected with any lawful agitation, movement or effort for the redress of grievances of workers, peasants, middle class employees, traders, businessmen or any other section of the community:

15 Provided further that no bona fide worker of any political party or people's organisation shall be liable to proceedings under this section unless such person has been actually apprehended in an act of commission of a criminal offence.”

Amendment  
of section  
129.

3. In section 129 of the principal Act,—

(a) for the words “and if it is necessary for the public security that it should be dispersed”, the words “and if there are reasonable grounds for apprehending positive and immediate danger of loss of human lives” shall be substituted, and 5

(b) the following provisos shall be added:

“Provided that recourse to such use of armed forces shall not be taken unless the Magistrate is reasonably satisfied that the police is not in fact in a position to restore order, and 10

Provided further that resort to the use of armed forces shall not be made with a view to suppressing movements or agitations, except communal disturbances, by sections of the people, such as workers, employees, peasants, or any other sections of the people having organised themselves 15 to solve their problems in a collective manner.”

Insertion of new section 131A. 4. After section 131 of the principal Act, the following section shall be inserted, namely:—

“131A. In every case where the Armed Forces have been called in the manner provided hereinbefore, the Central Government shall appoint within three days of such use of military force an Enquiry Commission consisting of not less than nine persons of whom three shall be members of Parliament and the remaining from out of persons functioning as Judges of High Courts or of persons qualified to hold the post of High Court 25 Judges, to enquire into and report to the Parliament on the circumstances under which Armed Forces were called in, the justifiability or otherwise of the same and the actions and behaviour of the officers and men so called in, and such other connected and consequential matters.” 30

Amendment  
of section  
144.

5. In section 144 of the principal Act—

(a) to sub-section (1) the following proviso shall be added. namely:—

“Provided that no order under this section shall be served on any person engaging in picketing in pursuance of 35 a strike, or in respect of any meeting or procession by any section of the people engaged in lawfully ventilating the grievances and/or sponsoring their demands”.

(b) to sub-section (3), the following provisos shall be added, namely:—

“Provided that no order under this section shall be directed to any person or any section of the community or 40

the public generally with a view to preventing or obstructing, in any manner or form, the ventilation of grievances of the people or any section thereof; and

5               Provided further that no such order shall be directed in respect of the vicinity of Parliament or State Legislatures or Territorial Councils where it may be necessary for citizens to proceed to voice their grievances or make an effort to be personally heard by the Legislators".

10              (c) for sub-section (6) the following sub-section shall be substituted, namely:—

15              “(6) No order under this section shall remain in force for more than forty-eight hours from the making thereof; unless, in cases of danger to human life, health or safety, or a likelihood of a riot or an affray, the State Government, with the consent of the High Court of Judicature, by notification in the Official Gazette, otherwise directs.”

---

### STATEMENT OF OBJECTS AND REASONS

The Code of Criminal Procedure was enacted when our country was under foreign rule. There are certain provisions in the Code of Criminal Procedure which were designed for the suppression of our people and their struggle for national independence and democratic rights and liberties. In the context of India's political independence some provisions of the Code of Criminal Procedure call for immediate amendment, they are liable to be used for suppression of popular agitation and democratic movements and for curtailment of rights and liberties of the citizens.

Sections 107, 129, 131 and 144 have been frequently invoked to curtail democratic rights and liberties, to intimidate the people and suppress their movement for the redress of their legitimate grievances.

This Bill aims at amending the above-mentioned sections of the Code of Criminal Procedure.

*8th July, 1958.*

**K. T. K. TANGAMANI**

## BILL No. 68 OF 1958.

*A Bill further to amend the Constitution of India*

BE it enacted by Parliament in the Ninth Year of the Republic of India as follows:

1. This Act may be called the Constitution (Amendment) Act, Short title.  
19

5 2. In Article 136 of the Constitution, after clause (2), the following clause shall be inserted, namely:—  
Amendment of Article 136.

10

"(3) Nothing in clause (1) shall apply to any judgment, determination, decree, sentence or order passed or made by any court or tribunal constituted for the adjudication of industrial disputes under the Central or State laws."

### STATEMENT OF OBJECTS AND REASONS

An appeal filed before the Supreme Court takes a long time for disposal and involves a great deal of expenditure which the workers cannot afford. Further a delay in the settlement of an industrial dispute invariably leads to stoppage of production and dislocation of industry. It is, therefore, necessary to take steps for the expeditious settlement of industrial disputes and save the workers from the huge cost and considerable delay in the litigation. The idea behind the abolition of the Labour Appellate Tribunal was to eliminate delay in settling industrial disputes through adjudication. This step alone has been found to be inadequate. This can be achieved by discouraging references or appeals to the Supreme Court through an amendment of the Constitution.

Hence this Bill.

NEW DELHI;

BALKRISHNA WASNIK.

*The 25th April, 1958.*

M. N. KAUL,  
*Secretary.*

### CORRIGENDUM

In the Gazette of India, Extraordinary Part II—Section 2, No. 26, dated the 11th August, 1958—[Bill No. 82 of 1958—The Banaras Hindu University (Amendment) Bill, 1958.]

At page 742,—

In line 7, for 'April' read 'May'